

INVESTIGATION REPORT
Navy Hotline # 201200806
16 July 2012

1. Investigators and Identifying Information and Location of Working Papers

a. Investigators and Identifying Information

(1) b6 b7c k2, b6 b7c k2 Office of the Medical Inspector General (MEDIG), Bureau of Medicine and Surgery (BUMED); telephone b6 b7c k2 or DSN b6 b7c k2, e-mail: b6 b7c k2 @med.navy.mil.

(2) b6 b7c k2, b6 b7c k2, MEDIG, BUMED; telephone b6 b7c k2 or DSN b6 b7c k2, e-mail: b6 b7c k2 @med.navy.mil

Location of working papers. Bureau of Medicine and Surgery, MEDIG, Walter Reed National Military Medical Center (WRNMMC), 8901 Wisconsin Avenue, Building 17, Bethesda, Maryland (MD) 20889

2. Background and Summary

a. Hotline Control Numbers, Dates of Receipt and Tasking Dates

(1) Navy Hotline # 201200806 – The MEDIG office received the complaint on 7 March 2012 during the MEDIG Inspection of Naval Health Clinic (NHC) Patuxent River from 6-9 March 2012. As a result of this complaint and at the direction of the Chief, Bureau of Medicine and Surgery the MEDIG opened case 201200806 on 15 March 2012.

Summary of Complaint. During the MEDIG inspection of NHC Patuxent River from 6-9 March 2012, the complainant approached the MEDIG Physical Readiness Program (PRP) program inspector, b6 b7c k2, b6 b7c k2 and stated that there was a lack of trust in the leadership at the command and alleged that senior personnel within in the command had not completed the 2nd cycle 2011 Physical Fitness Assessment (PFA). The complainant identified those senior personnel as b6 b7c k2, b6 b7c k2, NHC Patuxent River, b6 b7c k2, b6 b7c k2, NHC Patuxent River, b6 b7c k2, NHC Patuxent River, b6 b7c k2, NHC Patuxent River. The complainant indicated that the Command Fitness Leader (CFL) did not administer their PFAs, did not have documentation to show who administered the PFAs, or if the PFAs had been completed. As a result, during the inspection the MEDIG inspector conducted further documentation reviews and discovered numerous leadership failures concerning the command's administration and execution of the 2nd cycle 2011 PFA that included b6 b7c k2, b6 b7c k2, b6 b7c k2, b6 b7c k2 NHC Patuxent River's failure to meet Commanding Officer's PRP duties and responsibilities and falsification of PFA results by b6 b7c k2. Significant leadership failures concerning the PRP that began under b6 b7c k2, b6 b7c k2, b6 b7c k2 NHC Patuxent River, persisted under b6 b7c k2 through the 1st cycle 2012 PFA

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conducted in May 2012. This lack of leadership and oversight of the PRP at NHC Patuxent River created a permissive environment which resulted in a lack of integrity and adherence to governing directives, which placed personnel at risk. The NHC PRP leadership failures were detailed in separate correspondence dated 26 June 2012 to the Commander Navy Medicine National Capital Area.

b. [b6 b7c k2], on the advice of counsel, elected not to answer all questions during her re-interview on 10 May 2012. [b6 b7c k2] and [b6 b7c k2], on the advice of counsel, elected not to answer any questions concerning this investigation.

c. [b6 b7c k2] assumed command of NHC Patuxent River on 23 September 2011 from [b6 b7c k2]. [b6 b7c k2] retired from U.S. Navy on 23 September 2011.

d. During the course of the investigation, allegations of abuse of authority and PFA violations were made by members of NHC Patuxent River against the [b6 b7c k2] [b6 b7c k2], [b6 b7c k2] who is currently assigned to the MEDIG office as an [b6 b7c k2]. The allegations were forwarded to the BUMED Chief of Staff for review and action. On 12 July 2012 [b6 b7c k2], [b6 b7c k2] BUMED was assigned as the [b6 b7c k2] and was tasked to complete a command investigation into the allegations against [b6 b7c k2].

e. **Summary of the outcome of investigation.** Our review of the complaint determined ten allegations warranted investigation. Eight of the 10 allegations were substantiated.

f. List of allegations

(1) That [b6 b7c k2], [b6] NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing [b6 b7c k2], not the [b6] or an [b6 b7c k2] [b6 b7c], to administer her 2nd Cycle CY11 Physical Readiness Test (PRT) in violation of the Uniformed Code of Military Justice (UCMJ), Article 92, Failure to Obey Order or Regulation.

(2) That [b6 b7c k2], [b6 b7c k2] [b6] NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing [b6 b7c k2], not the [b6] or an [b6], to administer her 2nd Cycle CY11 official Body Composition Assessment (BCA) in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

(3) That [b6 b7c k2], [b6] NHC River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by administering [b6 b7c k2] official BCA during the command's 2nd cycle CY11 PFA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

(4) That [b6 b7c k2], [b6], NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing [b6 b7c k2], not the [b6] or an [b6], to

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administer her 2nd Cycle CY11 PRT in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

(5) That [b6 b7c k2], [b6], [b6], NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing [b6 b7c k2], not the [b6] or an [b6 b7c], to administer her 2nd Cycle CY11 official BCA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

(6) That [b6 b7c k2], [b6], NHC Patuxent River, not the [b6] or an [b6 b7c], on or about 28 and 29 December 2011 with intent to deceive, to wit: submitted his own 2nd cycle CY11 PFA (BCA and PRT) results, which were false and were known by the said to be so false in violation of the UCMJ, Article 107, False Official Statements.

(7) That [b6 b7c k2] NHC Patuxent River, not the [b6] or an [b6], was derelict in the performance of his duties in that he negligently failed to follow OPNAVINST 6110.1J, as it was his duty by administering the 2nd cycle CY11 PFA on [b6 b7c k2] and [b6 b7c k2] in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

(8) That [b6 b7c k2], [b6] NHC Patuxent River, not the [b6] or an [b6], was derelict in the performance of his duties in that he negligently failed to follow OPNAVINST 6110.1J, as it was his duty by administering the 2nd cycle CY11 PFA on at least two Chief Petty Officers, including [b6 b7c k2] and [b6 b7c k2] in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

(9) That [b6 b7c k2], [b6], NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing [b6 b7c k2], not the [b6] or an [b6], to administer her 2nd Cycle CY11 PFA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

(10) That [b6 b7c k2], [b6] NHC Patuxent River was derelict in the performance of his duties in that he negligently failed to follow OPNAVINST 6110.1J, as it was his duty, by allowing [b6 b7c k2], not the [b6] or the [b6], to administer his 2nd Cycle CY11 PFA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

3. **First Allegation.** That [b6 b7c k2], [b6], [b6], [b6] NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing [b6 b7c k2], not the [b6] or an [b6 b7c k2], to administer her 2nd Cycle CY11 Physical Readiness Test (PRT) in violation of the Uniformed Code of Military Justice (UCMJ), Article 92, Failure to Obey Order or Regulation.

Facts

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(1) The Chief of Naval Operations (OPNAV) Instruction 6110.1J, Physical Readiness Program states in part,

j. Commanders, COs, OICs shall:

(1) Comply with and execute all requirements of this instruction, utilizing the Operating Guide and Web site to obtain additional guidance for program operation.

(2) Integrate PT into the workweek, consistent with mission and operational requirements.

(3) Designate (in writing) and maintain one certified CFL to administer the requirements of this instruction and one assistant CFL (ACFL) per 25 command members.

(4) Ensure proper safety precautions are followed during command or unit PT, PFAs, and FEP.

(5) Ensure members receive proper medical screening.

(6) Ensure fitness reports and performance evaluations accurately reflect PFA performance and that all recommendations for promotions and advancements are conducted per requirements of reference (d).

(7) Ensure counseling of enlisted personnel who fail the PFA is properly documented through issuance of a permanent NAVPERS 1070/613 Administrative Remarks which is properly verified in the Navy Standard Integrated personnel system (NSIPS) and electronically forwarded to NAVPERSCOM via the servicing personnel support detachment or personnel office (PERSUPPDET/PERSOFF).

(8) Ensure Counseling and signatures are completed when issuing a letter of notification (LON) for officer PFA failures.

(9) Ensure management of an effective FEP.

(10) Ensure all data for semi-annual PFA are entered into PRIMIS within 30 days and all waivers are entered within 14 days of the completion of the command PFA cycle.

(11) Initiate ADSEP processing within 14 days of the third or greater PFA failure in most recent 4-year period for all individuals, per references (e) and (f), unless a waiver of readiness has been approved by the echelon 3 commander.

(12) Ensure compliance with reference (c) reporting requirements for any physical readiness-related injuries or fatalities.

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k. CFLs Shall:

(1) Meet the following requirements:

(a) E6 or above (preferred);

(b) Non-user of tobacco products;

(c) Overall PRT score of "Excellent" or "Outstanding;"

*(d) **Be within Navy BCA standards;***

(e) Maintain current cardiopulmonary resuscitation (CPR) qualifications;

and

(f) Complete OPNAV approved 5-day CFL certification course within 3 months of assignment as CFL;

(2) Conduct the semi-annual PFA per this instruction and the Operating Guide.

(3) Advise the chain of command on Physical Readiness Program matters at least quarterly.

(4) Maintain responsibility and oversight for command PT and FEP as outlined in the command fitness section of the Operating Guide.

(5) Ensure all ACFLs are CPR certified and competent to conduct PRT, BCA, FEP and command PT. All ACFLs shall be non-smokers and meet the same PFA requirements as the CFL.

(6) Use PRIMS to manage PFA data.

(7) Maintain original written documentation (notes and or worksheets, etc) of official command PFAs and FEP for a period of 5 years and per current personal identifiable information policy.

(2) OPNAVINST 6110.1J, Enclosure (1) paragraph 8 states in part,

8. PRT. The PRT is passed when a member scores satisfactory or above in all events.

a. Administration. The PRT shall only be administered by designated and certified CFLs and trained ACFLs. All personnel participating in the PRT shall wear Navy PTU.

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b. Participation. Member is medically cleared to participate in the PRT and the BCA is passed.

c. Alternate Cardio Events. The swim, elliptical and bike are alternate cardio events. Participation in an alternative cardio-respiratory event is not an entitlement. The OPNAVINST 6110.1J 11 JUL 2011 Operating Guide provides detailed information on the use and testing procedures for the cardio-respiratory alternative events.

d. Scoring. Each PRT event is scored for five levels of performance and assigned points based on performance:

- (1) Outstanding: 90 to 100 points;*
- (2) Excellent: 75 to 89 points;*
- (3) Good: 60 to 74 points;*
- (4) Satisfactory: 45 to 59 points; and*
- (5) Failure: 44 points or below.*

(e) The CFL is responsible for conducting a safe PRT and shall complete the PFA checklist in the Operating Guide. All events of the PRT shall be performed per the Operating Guide.

(f) One-on-one PRT are not authorized. Every PRT must have a CFL or ACFL and one qualified CPR monitor present per every 25 participants.

(g) All PRTs shall begin with the pre-physical activity questions to Determine whether there have been any changes in medical status since completion of the NAVPERS 6110/3.

(h) The CFL or ACFL will lead the participants in a 5 to 10 minute dynamic warm-up. Appropriate exercises are described in the Operating Guide.

(i) All PRT events shall be completed on the same day, and in the following sequence: warm-up, curl-ups, push-ups, cardio-respiratory event (run or walk, swim, elliptical trainer or stationary bike), and cool-down.

(j) Following completion of the PRT events, the CFL or ACFL shall ensure participants perform recommended cool-down exercises and sign the official PRT score sheet.

(2) UCMJ, Article 92, Failure to Obey Order or Regulation, states, "Any person subject to this chapter who,

(a) violates or fails to obey any lawful general order or regulation;

(b) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

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(c) is derelict in the performance of his duties; shall be punished as a court-martial may direct."

(3) OPNAVINST 6110.1J states, "Command Physical Training (PT) Program. COs are responsible and accountable for the physical fitness of their personnel and shall establish and maintain an effective year-round physical readiness program. Physical fitness shall be integrated into the workweek, consistent with mission and operational requirements."

(4) OPNAVINST 6110.1J establishes the process for evaluation of each member's physical fitness. The instruction states, "Physical Fitness Assessment (PFA). The Navy assesses personal physical fitness via a semi-annual PFA. The PFA includes a medical screen, a body composition assessment (BCA) and Physical Readiness Test (PRT). The medical screening includes the annual Periodic Health Assessment (PHA), a semi-annual NAVPERS 6110/3 Physical Activity Risk Factor Questionnaire (PARFQ), and prephysical activity questions. The BCA is based upon height and weight tables and circumference measurements, when required. The PRT is a series of physical events that assess cardio-respiratory fitness, muscular strength, and endurance. Physical fitness standards should be maintained constantly and consistently, not solely at the time of the semi-annual testing."

(5) The OPNAVINST 6110.1J directs that Commanding Officers **shall**: (1) Comply with and execute all requirements of this instruction, utilizing the Operating Guide and Web site to obtain additional guidance for program operation; (2) Integrate PT into the workweek, consistent with mission and operational requirements; (3) Designate (in writing) and maintain **one** certified CFL to administer the requirements of this instruction and one assistant CFL (ACFL) per 25 command members; and (4) Ensure proper safety precautions are followed during command or unit PT, PFAs and FEP.

(6) The OPNAVINST 6110.1J states that CFLs **shall** meet the following requirements: (1) E6 or above (preferred); (2) Non-user of tobacco products; (3) Overall PRT score of "Excellent" or "Outstanding;" (4) Be within Navy BCA standards; (5) Maintain current cardiopulmonary resuscitation (CPR) qualifications; and (6) Complete OPNAV approved 5-day CFL certification course within 3 months of assignment as CFL.

(7) The OPNAVINST 6110.1J states that the PFA consists of a medical screening, BCA, and PRT. To facilitate operational commitments or mission requirements, a command may conduct an official PFA anytime within each Navy PFA cycle providing there is a minimum of 4 months between PFAs and only one per Navy cycle. The command PFA cycle is determined by the CO to include the regular and make-up dates for PFA components.

(8) The OPNAVINST 6110.1J states the following PRT safety guidelines: (1) Participation in physical activity, even those related to improving health status, pose a risk of injury. Environment and characteristics of participants also contributes to overall injury risk. Members must be informed of these risks and taught how to minimize the possibility of injury; (2) The CFL is responsible for conducting a safe PRT and shall complete the PFA checklist in the Operating Guide; (3) All events of the PRT shall be performed per the

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Operating Guide; and (4) One-on-one PRT are not authorized; (5) Every PRT must have a CFL or ACFL and one qualified CPR monitor present per every 25 participants.

(9) According to b6 b7c k2 she became the responsible management official for the (b)(6), (b)(7)(c) years ago. She stated that, "I can't really say when the command fitness fell into Health Promotion; it was probably about eight years ago. And I was more or less (b)(6), (b)(7)(c) with having an E7 and E6 as the command fitness leader, although from the BUPERS [Bureau of Personnel] side of the house, they were the assistants. And -- but they did everything as far as the instruction is concerned with the PRP with me prompting them."

(10) According to b6 b7c k2 she held the title of b6 . She stated that she, "Took all the testing, went through the Cooper personal trainer that BUPERS [Bureau of Personnel] required, and actually there were very -- seemed to be BUPERS okay with that, you know, having civilians in that position."

(11) According to b6 b7c k2 she held the management responsibilities for the (b)(6), (b)(7)(c) . She stated that about two and one half years ago she was, "called into the b6 b7c k2] office," and informed that the, "Health Promotion Office was no longer responsible for managing the PRP." She further stated that, "b6 b7c k2 took over as the b6 from me when they [b6 b7c k2 b6 b7c] said, "Your done with it."

(12) When asked why she thought she was removed as the b6 , (b)(6), (b)(7)(c) stated, "I suspect that we had some senior officers that were out of standard."

(13) According to b6 b7c k2 , she reported to NHC Patuxent River in (b)(6), (b)(7)(c) . She stated that she was assigned as the b6 in December (b)(6), (b)(7)(c) and remained in that capacity until (b)(6), (b)(7)(c) . b6 b7c k2 stated that she took over b6 responsibilities from b6 b7c k2 .

(14) According to b6 b7c k2 , b6 b7c k2 notified her verbally in January 2011 that b6 b7c k2 , NHC Patuxent River previous b6 assigned him [b6 (b)(6), (b)(7)(c) as the CFL and that she was no longer the CFL. She stated, "I was informed by (b)(6), (b)(7)(c) that I was no longer the CFL and that was surprising."

(15) According to (b)(6), (b)(7)(c) designated (b)(6), (b)(7)(c) to act as the (b)(6), (b)(7)(c) from on or about January 2011 until April 2011. On 21 April 2011 (b)(6), (b)(7)(c) was designated in writing as the (b)(6), (b)(7)(c) as part of the application for (b)(6), (b)(7)(c) to attend the required CFL certification course administered by the Commander Navy Installations Command (CNIC) from 9-13 May 2011.

(16) When asked if she knew the reason why she was no longer the (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) stated, "I'm going to try to be careful with my words. I ran the program by the book. Everyone was equal. Everyone was treated fairly from the lowest to the, all the way up to the CO. They did not like that, (b)(6), (b)(7)(c) (b)(6), (b)(7)(c)] especially.

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They let me know they did not like that. It got very difficult for me to continue on with the program.”

(17) b6 b7c k2 stated that b6 b7c k2, “Was given the command fitness, and then it was taken away within a year, and it was given to b6 b7c k2. And I think she feels that partially because that she knew that people were out of standards, and it was like, okay, let’s keep shifting it [IO note b6 designation] until we get this taken care of [IO note: designate a b6 that could be influenced on reporting PFA results].” b6 b7c k2 clarified that, “What I meant is that if b6 b7c k2 was going to stick right by the book, and possibly there might be some folks that could not participate – you know, run or participate in the fitness portion or the body comp might be out, then maybe it’s time to move her on into another nursing role and bring someone else in.”

(18) When asked if she could describe the environment that would cause her b6 b7c k2 not to be able to run the PRP to standard, b6 b7c k2 stated, “I think she, and I can’t say that I remember her exactly telling me that, but we had two senior Nurse Corps officers. I mean besides being O6s, they were Nurse Corps. And from eyeballing them, I would say they were both out of standards. And I—you know you get pretty good at that after a while when you do it for eight years...but not very often is somebody you think is out of standards, you measure them and they’re in standards. And both of those were in standards and I just, you know, had to question that but I didn’t question her [b6 b7c k2 not to her face question her integrity.” When asked the names of the two Nurse Corps officers that appeared out of standard but b6 b7c k2 stated, “b6 b7c k2 and b6 b7c k2.” When asked if it was her opinion that there BCAs may not have been accurate, b6 b7c k2 stated, “Yes, that would be my opinion.”

(19) When asked if there others that might have been out of standard that received passing BCA results, b6 b7c k2 stated, “Yes, b6 b7c k2.”

(20) According to b6 b7c k2, she was not getting the b6 support she needed to run the program properly. She stated, “I finally went to the b6 b7c k2, b6, b6] and to the b6 b7c k2 and said, Hey, I can’t continue on like this. You know, not that I wanted to resign. I just couldn’t continue on with not any support. Roger that Ma’am, I got you. And I left and about a day or so later, b6 b7c k2 approaches me and he tells me, Hey, I’m the b6 now....And I said are you sure? When did that happen? He [b6 b7c k2] said, oh, the b6 appointed me. And I said she did not say anything to me about it. He says Yes, I’m the b6.”

(21) According to b6 b7c k2, she contacted b6 b7c k2 to verify that she was no longer the b6. She stated, “I went to the b6, b6 b7c k2. I said Sir, may I meet with you? I was informed by b6 b7c k2 that he has now taken over as the b6. And he said, Yes that’s right. And I said Yes Sir.”

(22) No documentation could be located that officially assigned b6 b7c k2 as the b6 in January 2011. According to the documentation on record provided by b6 b7c k2

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b6 b7c k2 , b6 b7c k2 Patuxent River b6 b7c k2 was assigned as an b6 b7c k2 on 19 January 2011.

(23) When asked whether b6 b7c k2 was in or out of standards when assigned as the b6 , b6 b7c k2 stated that b6 b7c k2 appeared out of [IO note: BCA] standard.

(24) During her interview b6 b7c k2 stated that she was kept as the b6 in title only and b6 b7c k2 administered the PRP, to include PRIMS entries. (b)(6), (b)(7)(c) stated, "The transition was bad [IO note: transition of CFL duties from b6 b7c k2 to b6 b7c k2] because b6 b7c k2 was charting and doing everything under my name and I couldn't verify what he was doing. I didn't agree with what he was doing. He wasn't--he had favorites. He wasn't--it was very suspicious from my point of view."

(25) According to the Commander Navy Installations Command (CNIC) Navy CFL 9-13 May 2011 course application dated 21 April 2011, signed by b6 b7c k2 , b6 b6 b7c k2 was assigned as the b6 on 21 April 2011. The NHC Patuxent River point of contact for the b6 course application on b6 b7c k2 designation letter is b6 b7c b6 b7c k2 , the b6 .

(26) According to an e-mail dated 3 May 2012 from b6 b7c k2 , b6 b7c k2 b6 b7c k2 , b6 b7c k2 was approved to attend the 9-13 May 2011 course, but was dropped from the course for a BCA failure for (b)(6), (b)(7)(c) [IO note: (b)(6), (b)(7)] is the upper limit of BF% for males] after reporting for the course.

(27) According to OPNAVINST 6110.1H dated 15 August 2005, b6 b7c k2 was no longer qualified to be assigned as a b6 or b6 b7c because of his recorded BCA failure for exceeding (b)(6), (b)(7)(c) and his subsequent disenrollment from the May 2012 b6 course.

(28) According to the NAVHLTHCLINICPAXRIVINST 6110.1L dated 25 April 2008, as referenced in b6 b7c k2 and b6 appointment letters, b6 b7c k2 was no longer qualified to be assigned as a b6 or b6 because of his BCA failure and his subsequent disenrollment from the May 2011 CFL course.

(29) According to the CNIC Navy CFL 20-24 June course application dated 13 May 2011, [IO note: four days after b6 b7c k2 was disenrolled from the 9-13 May 2011 CFL course for BCA failure] signed by b6 b7c k2 , b6 b7c k2 was assigned as the b6 on 21 April 2011. The designation letter signed by b6 b7c k2 to b6 b7c , b6 b7c b6 b7c k2 in this course application, requests that Physical Readiness Information Management System (PRIMS) access be transferred from b6 b6 b7c k2 to b6 b7c k2 . The NHC Patuxent River point of contact for the CFL course application on b6 b7c k2 CFL designation letter is b6 b7c k2 .

(30) According to b6 b7c k2 , b6 b6 b6 b7c k2 e-mail dated 3 May 2012, b6 b7c k2 was approved to attend the 20-24 June 2011 course, but was disenrolled from the course as a 'no show'.

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(31) According to the b6 NHC Patuxent River letter 6110/00SMQ, b6 b7c k2 b6 was assigned as the command's CFL on 12 July 2012.

(32) On 15 July 2011, via enterprise Knowledge Management (eKM) news, BUMED distributed the newly released OPNAVINST 6110.1J, Physical Readiness Program. The eKM consult comment read, NCA-for widest distribution. Thanks." The eKM message read, "Please see attached OPNAVINST 6110.1J of 15 Jul 11 "PHYSICAL READINESS PROGRAM". This OPNAVINST applies to all active component (AC) and reserve component (RC) Navy personnel, commands and activities."

(33) On 15 July 2011 the NHC Patuxent River b6 b7c k2 (DFA), b6 b7c k2, b6 b7c k2 sent the newly distributed OPNAVINST 6110.1J via e-mail to b6 b7c k2, b6 b7c k2, and b6 b7c k2. The e-mail read, "Good b6 b7c k2, New Physical Readiness Program Instructions "hot off the press" for your review prior to wide dissemination to all military staff. VR//DFA"

(34) The b6 b6 b7c k2, sent an e-mail Note: When? addressed to 'PAX-Military', a group e-mail address to all the military members of the command, forwarding the newly released OPNAVINST 6110.1J, Physical Readiness Program. The e-mail read, "All, here is new PHYSICAL READINESS PROGRAM instruction. Enjoy. VR/XO"

(35) When asked if b6 b7c k2 had notified him that b6 b7c k2 was not qualified to be the b6 b6 b7c k2 stated, "No."

(36) According to b6 b7c k2, in response to the b6 e-mail dated 15 July 2011 that forwarded the newly released OPNAVINST 6110.1J, and after reviewing the instruction, she sent an e-mail to b6 b7c k2 on 15 July 2011 raising several concerns about the 'CFL Program'. The e-mail stated, "The acting b6, b6 b7c k2, is not qualified to be a b6 or b6 per OPNAVINST 6110.1J." The e-mail listed the requirements for the CFL as set forth in the OPNAVINST 6110.1J. In this e-mail, b6 b7c k2 further states, "b6 b6 b7c k2, to my knowledge, does not meet [IO note: requirements of the OPNAVINST], Sir. The perception among the command is b6 b7c k2 can't pass the PFA therefore everyone passes. I've been approached by several corpsmen, who would like to remain anonymous, in fear of reprisal, who have voiced unfair favoritism. Sir another concern, the instruction states that command shall, Designate (in writing) and maintain one certified CFL to administer the requirements of this instruction and one assistant CFL (ACFL) per 25 command members. Per my previous conversation, at the time b6 b7c k2 appointment, the concern is my signature is on all the administrative papers regarding the program. I am very uncomfortable with this arrangement. It's a challenge to verify the accuracy of reports, Sir. Official records of PFAs and Fitness Enhancement (FEP) are to be kept for a period of 5 years. Sir, my recommendation is to appoint a CFL who is qualified or let me truly run the program. b6 b7c k2, as suggested, before, qualifies to be b6. The only concern, with junior personnel at this command is the influence of senior leadership."

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(37) According to b6 b7c k2, when she met with b6 b7c k2 to discuss the contents of the e-mail she sent him concerning b6 b7c k2 not being qualified to be a b6 in paragraph (36) above, b6 b7c k2, instead of focusing on the issues, proceeded to line through the e-mail and provided her a lesson in the proper use of grammar. She stated, "I know how you feel about e-mails, Sir, but I wanted just to follow up on my concerns and so forth. And that's what he did [IO note: b6 b7c k2 provided the IO the original e-mail with penciled lines drawn through the e-mail text and hand written notes annotated.] in my presence. He crossed everything out and basically, dismissed me."

(38) When asked if b6 b7c k2 concurred that b6 b7c k2 was not qualified to be a b6, b6 b7c k2 stated, "He didn't make a comment on that." b6 b7c k2 further stated, "And he [b6 b7c k2] just says you know, let b6 b7c k2 run the program, basically. And he said at one time, early, early on when b6 b7c k2 first came and spoke to me, he said, 'Treat him like a b6'. Let him be just acting until he can get his credentials. And that's when I said, You know b6 b7c k2 is not going to allow that. b6 b7c k2 will run all the shots. She will get all her buddies in there. All the chiefs will pass. And I said, the officers who you know she built up against me, they will pass....And he basically, you know tried to encourage me to use leadership skills and training, which that doesn't work."

(39) When asked b6 b7c k2 had access to PRIMIS and if he input data, b6 b7c k2 stated, "The b6 b7c k2 told me to give him access [IO note: in January 2011]. I did that, I gave him access to it. He had it. He sent out notes. He - I asked could I sit in at least to meet when he meets with the b6. Denied."

(40) After b6 b7c k2 re-interview on 9 May 12, 2012 he sent the IO an e-mail requesting that the contents of his e-mail be made a matter of record. The e-mail from b6 b6 dated 9 May 2012 stated in part, "In our discussion about b6 b7c k2 e-mail, the message b6 b7c k2 was wanting to communicate up the chain of command was already discussed by the Triad¹. b6 b7c k2 had already appointed b6 b7c k2 as b6 because b6 b7c k2 had difficulty becoming b6 b6 b7c k2 clear intent in July was to move forward with b6 b7c k2 becoming the b6 as in the documentation I have already provided you related to these events. b6 b7c k2 July 2011 e-mail communication was not going to have an impact on that decision but I still passed on her message (not e-mail) to b6 b7c k2. My focus, discussion, and hand edits of the e-mail were to work with b6 b7c k2 on writing e-mails and being an effective e-mail communicator. I had called her into my office to talk about the style of the e-mail, not its content. b6 b7c k2 should have several examples of this practice as I hand edited a number of her e-mails and had a number of similar discussions with her about her e-mails. As you can see I did not reply to that e-mail but rather printed it out and hand edited the e-mail without changing the message in a manner I thought would be more effective."

(41) When asked if individuals were gun decking [IO note: recording false PRT and BCA results] BCA or PRT results, b6 b7c k2 stated, "If she [IO note: b6 b7c k2

¹ Triad-Navy terminology that identifies the leadership of a command: (1) Commanding Officer; (2) Executive Officer; and (3) Command Master Chief.

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b6 b7c k2] liked you and you were out of standards, somehow, especially b6 b7c k2, you're going to pass."

(42) When asked for specific instances where false PRT or BCA results were recorded, b6 b7c k2 stated, "My first failure was one of my fellow nurses and I was shaken and he b6 b7c k2] was present and we did it by the book and that was my first rude awakening that this was going to be a difficult challenge. And so when she failed, I was accused of trying to sabotage her career because she was a b6 b7c k2. b6 b7c k2 [b6, b6] at that time who was my b6 b7c k2 – it's only four nurses there – came to me and asked me to make that go away for b6 b7c k2I just said, "No Ma'am, I can't do that."... When b6 b7c k2 failed b6 b7c k2, b6 b7c k2, which is the DNS and b6 b7c k2 all worked behind the scenes to try to get that overturned. They went to b6 b7c b6 b7c and wanted b6 b7c k2 to re-administer the BCA and put it in the computer. b6 b7c k2, thank God, had her integrity, and she told me what they were trying to do, but not to tell them; and so that was my first encounter with b6 b7c k2 and b6 b7c k2 that this was going to be rough."

(43) According to the b6 b7c k2 15-19 August 2011 course application dated 26 July 2011, signed by b6 b7c k2, b6 b7c k2 was assigned as the b6 on 26 July 2011. The NHC Patuxent River point of contact for the CFL course application on b6 b6 b7c k2 designation letter is b6 b7c k2.

(44) According to BUPERSINST 6110.1J, "the b6 shall designate (in writing) and maintain one certified b6 to administer the requirements of the instruction." The command was not in compliance at this time with the OPNAVINST 6110.1J because b6 b6 b7c had assigned two b6 concurrently; she assigned b6 b7c k2 the b6 on 12 July 2011 and then assigned b6 b7c k2 as the second b6 on 26 July 2011.

(45) When asked if he advised b6 b7c k2 in any way about b6 b7c k2 not meeting [OPNAVINST 6110.1J] criteria to be a b6, b6 b7c k2 stated, "Oh, yes. She b6 b7c k2 knew that. b6 b7c k2, the b6 and myself talked about him b6 b6 b7c k2] not meeting the requirements. That's why b6 b7c k2 was assigned as the b6."

(46) When asked why b6 b7c k2 was allowed to perform duties as an b6 or b6 when he wasn't qualified, b6 b7c k2 stated, "It was a mistake."

(47) According to b6 b7c k2 memorandum dated 27 July 2011 to the NHC Patuxent River Military Staff, military members of the command were provided notice of the Fall 2011 Physical Fitness Assessment Cycle Two that began on 1 July 2011 and ended on 31 December 2011. The memorandum established dates and times for the Early PRT and BCA (26 September-BCA, 27-28 September-PRT) and the Regular PRT and BCA (3-11 October-BCA and 12-13 October-PRT). There were no 'Late' PRT and BCA dates established. However, the memorandum stated that any personnel not able to participate in the scheduled command PFA will be tested during the FEP mock PFAs. The point of contact

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listed on the memorandum was b6 b7c k2 . The letter does not state that b6 b6 b7c k2 is ab6 .

(48) According to b6 b7c k2 , b6 b7c k2 b6 b7c k2 , e-mail dated 3 May 2012, b6 b7c k2 was approved to attend the 15-19 August 2011 CFL Course, but was dropped from the course for a BCA failure [IO note: (b)(6), (b)(7)(c) after reporting for the course.

(49) According to OPNAVINST 6110.1J, b6 b7c k2 was no longer qualified to be assigned as ab6 or b6 because of his second BCA failure and subsequent disenrollment from the August 2011 CFL course.

(50) According to the NAVHLTHCLINICPAXRIVINST 6110.1L dated 25 April 2008, as referenced in b6 b7c k2 b6 appointment letter b6 b7c k2 was no longer qualified to be assigned as a b6 or b6 b7c because of his second BCA failure and disenrollment from August 2011 CFL course.

(51) According to testimony from b6 b7c k2 and b6 b7c k2 , despite being dropped from the b6 b7c k2 certification course twice for BCA failures, and therefore not qualified to serve as ab6 or b6 , the command took no official action to rescind b6 b6 b7c k2 assignment as b6 or b6 .

(52) According to b6 b7c k2 , she reported to NHC Patuxent River on or about 15 September 2011 and assumed command from b6 b7c k2 on 23 September 2011.

(53) According to b6 b7c k2 , her previous assignment to b6 NHC Patuxent River was as the b6 b7c k2 ; NHC Quantico, which according to MAPQUEST is 91.64 miles. The close proximity of these two duty stations made delay in performing the PFA due to 'acclimitization,' as stated in the OPNAVINST 6110.1J, not applicable.

(54) When asked if she knew her responsibilities as the b6 for the [physical readiness program] in accordance with the OPNAVINST 6110.1J, b6 b7c k2 stated, "I don't believe I have an in-depth familiarity as I should possess."

(55) To better determine b6 b7c k2 understanding of the requirements of the PRP, b6 b7c k2 was asked what her involvement was with the [physical readiness] program in her previous assignment as the b6 b7c k2 , NHC Quantico. b6 b6 b7c k2 stated, "As a participant as everyone else was. I would review or screen the letters of successful accomplishment to those who scored in the higher categories of outstanding or above."

(56) b6 b7c k2 , b6 b7c k2 , b6 b7c k2 , stated that their command's b6 had oversight responsibilities for the PRP, but the b6 , "Has of course, administrative oversight to make sure that things are getting done. He [IO note: b6 b7c k2 was speaking about the b6 in general terms, which includes both genders] also makes sure that I get my briefs pre and post cycles, and he [b6] also works my

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b6 b7c k2 to make sure that the Executive Steering Committee (ESC) gets their quarterly briefs.” b6 b7c k2 stated that the b6 would sit in on the briefs. b6 b7c k2 further stated that, “The brief that is given to us [IO note: b6 b7c k2] is like, okay, what do we have; what are our stats, what went well; what didn’t go well.”

(57) When asked if there was anything else she would like to offer at the end of her interview, b6 b7c k2 stated, “It’s concerning to me because I do believe there was a perception, and I do believe that her [IO note: b6 b7c k2] not physically putting on the blue and gold and going out either on a Physical Enhancement Program, which we have a very robust one, or even just be seen going to the gym or going out getting on a treadmill or something, that troubled me, and I had conversations with her [IO note: b6 b7c k2], especially the fact that she was going to command and really needed to be leading from the front and out there, and have the perception that she’s working hard, too.”

(58) When asked if she was aware of any issues that b6 b7c k2 had with the PFA or PRT while she was her b6, b6 b7c k2 stated, “Officially no. Unofficially, I was in—constantly urging her [b6 b7c k2] to be taped, be measured. I knew there were times where she was out of standard. It was courtesy measurements”.... “But there was never anything official on the record. I was—was very concerned about her ability to meet the BCA standard, not so much to pass the actual test, but to meet the body standards.”

(59) According to testimony by b6 b7c k2, “When b6 b7c k2 first got here, she wasn’t—she had lost a lot of weight and we all noticed it. When she first stepped in, she was much smaller. And then it seemed like her—she just seemed—I mean, people started saying, she looked like she had body fat even when she was in it -- before when she was in her—wearing her dress blues, I mean, the first couple of months, and then all of a sudden people started talking about her weight gain and everything. And, I mean, one of the things that b6 b7c k2 and b6 b7c k2, we had this routine. We’d go to education and training every afternoon and what do we do? We exercise. And I kept saying, Ma’am b6 b7c k2, I’m going to the gym, you can go with me. And everything, my drawing tapes, you can come—go with me and even the b6 said, “You know, you need to hook up with b6 b7c k2. She PTs in the afternoon and everything, and she didn’t come along.”

(60) According to PRIMS Body Composition Listing report for b6 b7c k2 dated 2 May 2012, b6 b7c k2 average Body Fat (BF) percentage from the 1st cycle PFA 2008 through the 1st cycle PFA 2011 was ^{(b)(6), (b)(7)(c)}. According to the PRIMS report, during this same period 2008-2011 b6 b7c k2 BF% was never officially recorded below ^{(b)(6), (b)(7)(c)}.

(61) When offered to make a comment on b6 b7c k2 administering the BCA [height and weight] for the b6 b7c k2 and administering the PRT for the b6 b7c k2 and the b6 b7c k2, b6 b7c k2 stated, “That shouldn’t have happened. Certainly, the b6...knew that b6 b7c k2 wasn’t able to become b6. My understanding was that, including at that time, that b6 b7c k2 was the b6.”

(62) When asked in your position as the b6, would it not be part of your responsibilities to ensure the b6 b7c k2 had a correct [qualified] b6 assigned,

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b6 b7c k2 stated, "Yes, sir." And when asked if she should have advised the b6 that someone was assigned [IO note: As a b6 and shouldn't be, b6 b7c k2 stated, "Yes, sir."

(63) b6 b7c k2 stated during her initial interview that she did not complete the PFA during the established dates for regular PRT and BCA because, "There were a lot of other extenuating circumstance that I'm happy to explain – that perhaps distracted my true attention to a program of this magnitude." She further stated that she, "Had a Command Managed Equal Opportunity (CMEO) case also going on shortly after my arrival that involved my attention immediately toward that and so quite frankly the PRT was not among the low hanging fruit for a Skipper at that point in time."

(64) The IO re-interviewed b6 b7c k2 and asked why she did not take the regular scheduled 2nd cycle 2011 PFA (BCA and PRT), which the IO clarified were 18 days and 20 days respectively after the change of command, b6 b7c k2 elected not to answer the question on the advice of counsel.

(65) During re-interview when asked if she would like to comment on why she did not take the BCA and PRT until 72 days after the regular scheduled 2nd cycle 2011 PFA (BCA and PRT), b6 b7c k2 stated, "On the advice of counsel, I choose not to answer that question."

(66) According to b6 b7c k2, she took the PRT on 23 December 2011, prior to going on leave for the holidays. She stated, "As a matter of fact, he [b6 b7c k2] was the principal when I came on board who administered the PRT that I took with my b6 b7c b6 on the 23rd of December prior to my departure for leave."

(67) According to a 12 May 2012 memo by b6 b7c k2, b6 b7c k2 b6 b7c k2, she contacted the Naval Air Station Morale Welfare and b6 b7c k2 b6 b7c k2, requesting the fitness center sign-in logs for 23 December 2011 to confirm b6 b7c k2 entry into the facility as evidence that she conducted the PRT on that date. b6 b7c k2 informed b6 b7c k2 that the sign-in logs for the 23 of December 2011 were not available and had been sent to recycle.

(68) When informed that the command is only supposed to have one b6 and asked if she was aware that b6 b7c k2 was not a qualified b6 or b6 b7c, b6 b7c k2 stated, "I understood that he was working like a co-CFL²."

(69) When asked if there was a process and timeline laid out for late 2nd cycle 2011 PFAs, b6 b7c k2 stated that, "I had never seen the initial announcement [IO note: 2nd cycle 2011 PFA notice] that precluded [Sic] my arrival to command, so if it is within there or not within there, I don't know."

² OPNAVINST 6110.1J authorizes a CO to designate only one CFL. The instruction does not recognize or authorize a co-CFL.

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(70) b6 b7c k2 stated that he personally notified b6 b7c k2 of the dates of the PRT when she checked into the command [IO note: b6 reported to NHC Patuxent River on or about 15 September 2011].

(71) b6 b7c k2 stated that b6 b7c k2 knew he was the CFL at the time he notified her of the Fall 2011 PRT dates.

(72) b6 b7c k2 stated that he was not asked and did not provide a briefing to b6 b7c k2 on the plan for execution of the Fall 2011 PFA.

(73) When asked who conducted the b6 b6 b7c k2 PRT, b6 b7c k2 stated that, "b6 b7c k2 did."

(74) According to statements from b6 b7c k2 and b6 b7c k2, b6 b6 b7c k2 administered their 2nd cycle 2011 PRTs on 23 Dec 2011, which consisted of sit-ups, push-ups and the stationary cycle. When asked, neither b6 b7c k2 or b6 b7c k2 provided any witnesses of their PRTs, other than b6 b7c k2.

(75) b6 b7c k2 and b6 b7c k2 PRTs were not conducted during the FEP mock³ PFAs and were therefore not conducted in accordance with the policy for conducting late PFA's as set forth in the CO's memorandum of notification of the Fall 2011 PFA.

(76) b6 b7c k2 was not qualified, trained, or certified to be a b6 or b6 b7c in December 2011 when he administered the PRT for b6 b7c k2 according to testimony from b6 b7c k2, b6 b7c k2, b6 b7c k2, and b6 b7c k2, and the e-mail from b6 b7c k2 dated 3 May 2012 notifying the IO that b6 b7c k2 had been disenrolled from CFL courses 9-13 May 2011 and 15-19 August 2011 for failing the BCA.

(77) The OPNAVINST 6110.1J states, "Ensure all ACFLs are CPR certified and competent to conduct PRT, BCA, FEP, and command PT. All ACFLs shall be nonsmokers and meet the same PFA requirements as the CFL."

(78) According to the OPNAVINST 6110.1J, "Every PRT must have a CFL or ACFL and one qualified CPR monitor present per every 25 participants."

(79) No CPR monitor was present during b6 b7c k2 PRT on 23 December 2011. According to b6 b7c k2 and b6 b7c k2 the only person present during their PRT on 23 December 2011 was b6 b7c k2.

(80) According to b6 b7c k2 there was no CPR qualified observer present when he conducted b6 b7c k2 and b6 b7c k2 PRTs on 23 December 2011.

³ Mock PFAs are conducted during FEP to allow the command and participants to monitor their progress with the BCA and PRT.

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(81) According to b6 b7c k2, he was approached by a member of the NHC Patuxent River command, during the MEDIG inspection conducted 6-9 March 2012, who informed him that there was a lack of trust in the leadership of the command. The member stated that there were concerns that senior members of the command had not completed their 2nd cycle 2011 PFAs. The member identified b6 b7c k2, b6 b6 b7c k2, b6 b7c k2, and b6 first name b6 b7c and stated that there was no documentation that they had completed the PFA.

(82) When asked if she had heard of any PFA improprieties or wrongdoing, b6 b7c k2 stated, "And this is the most previous cycle [IO note: 2nd cycle 2011 PFA] that several or numerous Chiefs did not -- not knowing if they did not participate, but with the b6 b7c k2 b6 b7c k2 that is the assistance b6 was told by the b6 b7c k2. I'll take care of them and he had nothing -- you know, never did it....that first class Petty Officer came back to me and said, there was nothing even entered in the PRIMS on several of those or most of those individuals. And he asked me what to do? I advised him to go up to his chain of command and discuss it." When asked the names of the Chiefs that she heard did not participate in the PFA, b6 b7c k2 stated, b6 b7c k2 and the b6 b7c k2 b6 b7c k2 that runs our PFA." [IO note: b6 b7c k2 is the b6 assigned as one of two command b6 b7c ;]

(83) b6 b7c k2 and b6 b7c k2 on the advice of counsel, elected not to answer any questions regarding this investigation.

(84) According to b6 b7c k2, written documentation of the results of b6 b6 b7c k2 2nd cycle 2011 PRT and BCA could not be located by b6 b7c k2 and was therefore, not provided to him during the MEDIG inspection 6-9 March 2012.

(85) According to b6 b7c k2 Memorandum For the Record (MFR) titled "NHC Patuxent River Physical Readiness Program dated 12 March 2012, the following MEDIG inspection (6-9 March 2012) findings were documented: (1) b6 b7c k2 performed the duties of the b6 for NHC Patuxent River although he was not designated as the b6 or qualified to serve per OPNAVINST 6110.1. (2) b6 b6 was designated as the b6 on 12 July 2011 by b6 b7c k2, however he still reported to b6 b7c k2 regarding the execution of the PFA. (3) b6 b7c k2 has access to the PRIMS. (4) b6 b7c k2 conducted the PFA, 72 days past the official PFA cycle, on at least two CPOs including b6 b7c k2, the b6 b7c k2 b6 b7c b6 b7c k2 and the b6 b7c k2 b6 b7c k2 for the 2011 2nd cycle PFA in violation of OPNAVINST 6110.1J.

(86) According to b6 b7c k2 MFR dated 12 March 12, during the MEDIG Inspection of NHC Patuxent River 6-9 March 2012, when asked by b6 b7c k2 who conducted b6 b7c k2 PFA, b6 b7c k2 stated that he had conducted her PFA. According to b6 b7c k2 MFR dated 12 March 12, b6 b7c k2 stated that he knew he should not have conducted the PFA on members of the command because he was not designated as either the b6 or b6 b7c. b6 b7c k2 stated that he put b6 b7c k2 in a, "difficult position."

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(87) According to b6 b7c k2 MFR dated 12 March 12, during the MEDIG Inspection of NHC Patuxent River 6-9 March 2012, when asked by b6 b7c k2 who conducted her PFA, b6 b7c k2 stated that, b6 b7c k2 had conducted her PFA around the end of the December along with b6 b7c k2. When asked if she was sure, b6 b7c k2 responded that she was sure because she held b6 b7c k2 feet for the curl-ups. When asked by b6 b7c k2 why she waited until the end of the cycle to participate in the PFA, b6 b7c k2 stated that she was waiting for the b6 [IO note: b6 b7c k2] to participate in the PFA.

(88) According to b6 b7c k2 MFR dated 12 March 12, during the MEDIG Inspection of NHC Patuxent River 6-9 March 2012 when asked by b6 b7c k2 why b6 b6 b7c k2 conducted the PFA, b6 b7c k2 stated that b6 b7c k2, the previous b6, had assigned b6 b7c k2 to be the b6. b6 b7c k2 stated to b6 b7c k2 that she knew that b6 b7c k2 was no longer assigned as the b6 because he had been dropped from the CFL course and she had informed b6 b7c k2 that he could no longer be the b6. She further stated to b6 b7c k2 that she was aware that b6 b7c k2 was the designated b6.

(89) According to b6 b7c k2 MFR dated 12 March 12, during the MEDIG Inspection of NHC Patuxent River 6-9 March 2012, b6 b7c k2, b6 b7c k2, b6 b7c k2 and b6 b7c k2 did not appear to be within Navy BCA standards.

(90) During the MEDIG Inspection of NHC Patuxent River 6-9 March 2012, when asked by b6 b7c k2 who conducted his PFA, b6 b7c k2 stated, "I ran it myself." b6 b7c k2 responded by stating, "So you did not perform the PFA" and b6 b7c k2 stated, "Yes." b6 b7c k2 stated to b6 b7c k2 that he knew he, "messed up," and made a bad decision and it bothered him very much.

(91) According to b6 b7c k2 MFR dated 12 March 12, during the MEDIG Inspection of NHC Patuxent River 6-9 March 2012, when asked by b6 b7c k2 who administered the b6 b7c k2 BCA, b6 b7c k2 stated that she [IO note: b6 b7c k2] obtained b6 b7c k2 BCA. When b6 b7c k2 informed b6 b7c k2 that she should have known that was wrong because she [IO note: b6 b7c k2] b6 b7c k2 was not a certified b6 she stated, "Yes. We knew that."

(92) According to the OPNAVINST 6110.1J states, "NAVPERS 6110/3. All personnel shall complete a NAVPERS 6110/3, Physical Activity Risk Factor Questionnaire (PARFQ), via PRIMS as soon as possible following the PFA notification.

(93) According to b6 b7c k2 memorandum for the record, during the PFA documentation review of the NHC Patuxent River 2nd cycle 2011 PFA, he discovered that 15 personnel had not completed the PARFQ according to the PRIMS records. The b6, b6, and b6 b7c k2 who were all tested by b6 b7c k2 on their PRTs did not have a PARFQ recorded in PRIMS or a hard copy PARFQ available for review as of 9 March 2012. b6 b7c k2 PARFQ was in PRIMS but there was no documentation that he was screened

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by the Authorized Medical Department Representative (AMDR) and cleared prior to taking the PRT.

(94) According to b6 b7c k2 during his 4 April 2012 testimony, b6 b7c k2 finally provided him documentation of the results of the b6 b7c k2 2nd cycle 2011 PRT when, "he [b6 b7c k2] handed me a copy of it about last week or two weeks ago." That would have been during the weeks of 19-23 March 2012 or 26-30 March 2012 respectively, over two months after the PRT was conducted.

(95) According to the NHC Patuxent River PFA General Health Questionnaire signed by b6 b7c k2 on 23 December 2011, which was not provided to the b6, b6 (b)(6), (b)(7)(c) until March 2012, she answered "no" to all the health risk factor questions. b6 b6 b7c k2 PRT results recorded on the form were (b)(6), (b)(7)(c) b6 b7c k2 signed the form as the 'observer' under the 'Physical Fitness Assessment (PFA) Coordinator section. The spaces for b6 b7c k2 to print her name and sign the form under this section, where her PRT results are recorded, were left blank.

(96) According PRIMS PFA Listing Report b6 b7c k2 passed the PRT conducted on 12/23/2011 with a PRT result of 'good'. The PRIMS report listed b6 b6 b7c k2 Body Comp Date as 12/22/2011 and listed the BF as 29%.

(97) When asked who input b6 b7c k2, b6 b7c k2, b6 b7c k2 and b6 b7c k2 data [IO note: 2nd cycle PFA results] into PRIMS, b6 b7c k2 stated, "b6 b7c k2 did sir." b6 b7c k2 did not know the date that b6 b7c k2 input b6 b7c k2 PRT results in PRIMS.

(98) According to the CFL PRIMS Brief on the BUPERS website titled Navy Physical Readiness [<http://www.public.navy.mil/bupers-npc/support/physical/Documents/PRIMS.pdf>], "CFL grants access to AFCL and read only access to b6 b7c k2 and other command members as designated in writing by the b6." b6 b6 b7c k2 was a not certified b6 or b6 at the time he input b6 b7c k2 PRT results on or after 23 December 2011.

(99) b6 b7c k2, b6 b7c k2 b6 b7c testified that when she privately outbriefed b6 b7c k2 at the conclusion of the MEDIG inspection [IO note: on 9 March 2012] she notified her b6 b7c k2 misconduct. b6 b7c k2 stated, "So I then went to b6 b7c k2 office. When I went to her office, her door was open, and she and the b6 were having a very grave discussion. That was what it appeared to me, the way their body language, the way they were looking down, very serious expressions, and – and so then when they saw me, b6 then left the room, and the b6 then smiled at me, closed the door, and we sat down at her table in her office as we always did on the days before. So I went to the out-brief as I always would do with any b6 in the regular pattern, identifying Requirements for Improvement (RFIs), and – and when I was doing so tears were streaming down her face continually. I felt I knew what it was about [IO note: PRP improprieties]. So I didn't really want to go there with her. But

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then after it kept continuing, I finally asked her, asked her if she was okay, and she stated to me she was okay and then she got up and she would go to her desk, get a tissue and come back. So when it finally came to the finding of the PRP, I stated to her that b6 b7c k2 was not a certified b6 , and her body language, she was -- she had this expression like she was shocked. She leaned back, put her hands on the table and leaned back and had this shock expression, had a gasp, and then I told her that b6 b7c k2 had gun-decked his own PFA results, and again, same thing. She had the same affect, appearing shocked with a gasp, reeling back from the table, and then -- and that's all I shared with her about the PRP, that she had a RFI because she had an uncertified b6 conduct the PFA, and that they had had -- people with incomplete PARFQs or PARFQs with risk factors not screened appropriately before allowing them to participate in the PFA."

(100) During her 4 April 2012 interview, b6 b7c k2 indicted that she was aware that there were issues concerning b6 b7c k2 involvement with the PFA. b6 b6 b7c k2 stated, "And up until the recent notifications or as briefed to me by b6 b7c k2 b6 b7c , b6 b7c k2 had also been affiliated with the program."

(101) Although b6 b7c k2 notified informed b6 b7c k2 that b6 b7c k2 was not a certified, b6 b7c k2 did not remove PRIMS access from b6 b7c k2 , nor did she remove him as a b6 b7c k2 ; and did not conduct an investigation into his falsification of his PFA results.

(102) Although not certified to be assigned as a b6 b6 b7c b6 b7c k2 maintained access to PRIMS from the 1st cycle 2011 PFA until 4 April 2012. During his interview on 4 April 2012, when asked how long b6 b7c k2 had access to PRIMS, b6 b7c k2 stated, "He had access I believe since cycle 1 of 2011." When asked when b6 b6 b7c k2 access to PRIMS ended, b6 b7c k2 stated, "Actually I just, I took his access today [IO note: 4 April 2012], sir."

(103) b6 b7c k2 statements during re-interview conflicted with her previous statements during the initial interview where she acknowledged that b6 b7c k2 had specifically mentioned b6 b7c k2 during the MEDIG inspection and conflicted with b6 b7c k2 testimony that she informed b6 b7c k2 that b6 b7c k2 was not a certified b6 and that he gun decked [falsified] his PFA results. When asked during the re-interview on 10 May 2012 if she recalled being told by b6 b7c k2 that b6 b7c k2 had falsified his own PFA, b6 b7c k2 stated, "I remember her telling me privately in my office that there were, she asked if I was aware that there were participants among my Chief's Mess that had not completed the PRT." b6 b7c k2 was then asked, but not b6 b7c k2 specifically, to which she responded, "I do not recall specifically her b6 b7c b6 b7c saying b6 b7c k2 ."

(104) The MEDIG report of inspection of NHC Patuxent River dated 30 April 2012, listed the following requirement for improvement for the PRP program: "(1) Ensure only properly trained and designated b6 b7c k2 or b6 b7c k2 conduct Physical Fitness Assessments (PFA) per reference (a) [OPNAVINST 6110.1J]. (2) Ensure NAVPERS 6110/3 Physical Activity Risk Factor Questionnaire (PAFQ) is completed in

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Physical Readiness Information Management System (PRIMS) for all members participating in the PFA. (3) Ensure all NAVMED 6110/3 PARFQs are reviewed by the command designated Authorized Medical Department Representative (AMDR) for all members who indicate positive risk factors per reference (a) and are cleared or waived to participate in the PFA.”

(105) The letter from the b6 NHC Patuxent River [b6 b7c k2] to the ‘Military Staff’ dated 2 March 2012 provided notification of the Spring 1st cycle 2012 PFA. Paragraph (2) of the letter established the PFA schedule: (1) Early PRT (BCA 30Apr-1 May) and (Early PRT 2-3 May) and (2) Regular PRT (BCA 7-8 May) and (Regular PRT May 9 -10). Paragraph (1) established the time for BCAs on the dates scheduled as 0700-0800. This paragraph stated, “Please report in the Navy PT uniform. BCA’s must be accomplished at least twenty four hours but not more than 10 days prior to actually taking the PRT.” Paragraph (7) of the letter stated, “My point of contact is (b)(6), (b)(7)(c).”

(106) During her re-interview on 10 May 2012, when asked how the 1st cycle 2012 PFA was going from the standpoint of execution in an attempt to offer her an opportunity to discuss her involvement with the PFA and her leadership of the PFA execution, b6 b6 b7c k2 simply stated, “People are participating. I participated myself this morning.”

(108) When asked if the b6 for the PFA was b6 b7c k2, b6 b7c k2 responded with, “That is correct.” And when asked b6 b7c k2 was involved, b6 b7c k2 stated, “Other than as a participant that is correct.” b6 b7c k2 then stated, “To my knowledge.”

(109) Due to the non-compliance issues and improprieties noted during the command’s 2nd cycle 2011 PFA during the March 2011 MEDIG inspection, the MEDIG recommended, and the Chief, BUMED authorized, a follow-up inspection of the command’s 1st cycle 2012 PFA. According to MEDIG letter dated 4 May 2012 to the b6 NHC Patuxent River, b6 b7c k2, the b6 b7c k2 for the PRP was sent to NHC Patuxent River from 7-10 May 2012 to assess the command’s execution of the 1st cycle PFA. The inspector observed the PFA which included the BCA and PRT components. The inspector conducted a program [PRP] review and offered guidance when requested, but took no deliberate actions to interfere with the command’s execution of the PFA.

(110) According to MEDIG letter dated 15 May 2012 to the Chief, BUMED during the follow-up inspection of the NHC Patuxent River 1st cycle 2012 PFA, b6 b7c k2 found that, “the PRP at NHC Patuxent River does not comply with current governing directives and has significant program deficiencies.” The report identified the following findings:: (1) The b6 b7c k2 b6 b7c k2 b6 and two assistant CFLs, b6 b7c k2 and b6 b7c k2 were not familiar with the requirement to obtain a NAVPERS 6110/4 PFA Medical Clearance / Waiver form from the command designated Authorized Medical Department Representative (AMDR) on all members who indicated positive risk factors by marking yes to any questions on NAVPERS 6110/3 PARFQ. Fourteen members participated in the BCA without having the required medical

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clearance. (2) Single person BCAs (height and weight portion) were consistently obtained by b6 b7c k2 on 7 May 2012 without a second ACFL or trained observer as required by OPNAVINST 6110.1J, which sites that a minimum of two [CFL and ACFL or two ACFLs] are required to be present for conducting official BCAs. No single person, behind closed doors, or private BCAs are to be conducted. (3) b6 b7c k2 and the ACFLs were not familiar with the current guidelines regarding obtaining BCAs and utilized incorrect procedures in obtaining BCA. The CFL/ACFL used the proper body landmarks and measuring techniques, however they believed they were required to measure the body landmarks three times as required by the previous OPNAV instruction and not the most current guidelines. (4) Nine deployed Individual Augmentee (IA) personnel were incorrectly listed in PRIMs as "DEP/OP" vice the appropriate Individual Augmentee (IA) status. (5) Standards for wearing of the Navy Physical Training Uniform (PTU) per the U.S. Navy Uniform Regulations were not consistently enforced throughout the command. A LCDR presented for the BCA and was allowed to wear civilian dress shoes (moccasins) in her PTU. The b6 [b6 b6 b7c k2] was observed wearing compression shorts during her PRT that extended approximately 4 inches past the PTU shorts. Many service members (in excess of 25) were noted not to have their PTU shirt tucked in their PTU shorts as required, including the CFL and one ACFL. (6) b6 b7c k2, a command designated ACFL, appeared to be out of BCA standards to the inspector. When the inspector asked the CFL about b6 b7c k2 BCA and ACFL qualifications, the CFL stated that she met the initial requirements for an ACFL when she was assigned. When asked, b6 b7c k2 concurred with the MEDIG inspector that b6 b7c k2 appeared out of standard. An unofficial BCA was directed and obtained by the MEDIG inspector, which confirmed that b6 b7c k2 was out of BCA standards; she exceeded the (b)(6), (b)(7)(c)

The inspector discovered that her weight exceed the weight of (b)(6), (b)(7)(c) recorded as her official weight eight days earlier. The inspector discovered that b6 b7c k2 had weighed herself without two observers and presented the results (b)(6), (b)(7)(c) to b6 b7c k2 for signature, which he did without having witnessed the weigh in. The b6 also signed the document recording the alleged false weight as the second observer without witnessing the weigh in. (7) A total of eight service members failed the BCA standards for cycle 1 2012 PFA which represented a 50% increase over the BCA failures recorded during the 2nd cycle 2011 PFA. (8) the PRT component of the PFA was effectively executed and graded by b6 b7c k2 and the other ACFLs.

(111) A MFR from the MEDIG detailing the incident in which b6 b7c k2 is alleged to have falsified her BCA for the 1st cycle PFA and for the ACFL and CFL signing the form that recorded her BCA results allegedly without observing the weigh in was forwarded to the Commander Navy Medicine National Capital Area. The MFR recommends, "That the Navy Medicine National Capital Area (NMNCA) initiate an investigation into the actions of (b)(6), (b)(7)(c), b6 b7c k2, and b6 b7c k2 for suspected falsifying official BCA documentation. It is highly likely that b6 b7c k2 submitted a false BCA to avoid failing her BCA. If the allegation is substantiated, ensure a letter of correction is submitted to BUPERS (Code N135) to invalidate her official PFA results and take appropriate corrective action to address the alleged personal misconduct."

(112) The MEDIG letter to the Chief, BUMED providing the results of the follow-up

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inspection included a section titled 'other matters'. In that section, the MEDIG provided the following pertinent information: (1) b6 b7c k2 was the last person to obtain her BCA on 8 May 2012 and presented for the BCA past the designated BCA time established in the Spring 1st cycle 2012 PFA notification to the command. b6 b7c k2 acknowledged to the MEDIG inspector that she was not aware that it was the last day to obtain her BCA and was unaware of the specific BCA dates listed in the PFA notification letter she issued to the command on 2 March 2012. (2) b6 b7c k2 BCA was conducted properly by b6 b6 b7c k2 with the required number of observers after waiting to obtain the appropriate NAVPERS 6110/4 PFA Medical Clearance documentation from the AMDR b6 b7c b6 b7c k2 was measured within BCA standards at (b)(6), (b)(7)(c) (3) During the official PRT, b6 b7c k2 requested guidance from the MEDIG inspector after b6 b6 b7c k2 requested to read while performing the stationary cycle alternate cardio test. The inspector informed b6 b7c k2 that reading was not permitted during the official PFA and that both hands must be maintained on the stationary cycle handles at all times except to adjust resistance.

(113) The MEDIG letter to the Chief, BUMED stated that, "I do not believe b6 b6 b7c k2 aggressively supports the PRP per ref (a) [OPNAVINST 6110.1J]. Her lack of engagement and intrusive leadership in the PRP, as well as her personal example does not instill a culture of fitness with NHC Patuxent River. It appears the administration and integrity of the PRP is not a priority with the senior leadership of the command. This finding is especially concerning since she [b6 b7c k2] was previously aware of the requirements from improvements from the March 2012 MEDIG inspection and her knowledge of misconduct concerning the PRP."

Analysis/Discussion/Conclusion

(1) The OPNAVINST 6110.1J states, "Command Physical Training (PT) Program. COs are responsible and accountable for the physical fitness of their personnel and shall establish and maintain an effective year-round physical readiness program.

(2) The OPNAVINST 6110.1J directs that Commanding Officers shall comply with and execute all requirements of the instruction, utilizing the Operating Guide and Web site to obtain additional guidance for program operation.

(3) As the b6 NHC Patuxent River, b6 b7c k2 failed in her responsibilities as required by OPNAVINST 6110.1J to ensure the physical fitness of the command's personnel, failed to establish and maintain an effective year-round physical readiness program, and failed to comply with the PRT safety requirements.

(4) As the b6 NHC Patuxent River b6 b7c k2 failed to comply with the OPNAVINST 6110.1J, which directs that Commanding Officers **shall**: (1) Comply with and execute all requirements of this instruction, utilizing the Operating Guide and Web site to obtain additional guidance for program operation; (2) Integrate PT into the workweek, consistent with mission and operational requirements; (3) Designate (in writing) and maintain **one** certified CFL to administer the requirements of this instruction and one

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assistant CFL (ACFL) per 25 command members; and (4) Ensure proper safety precautions are followed during command or unit PT, PFAs and FEP.

(5) Despite the fact that b6 b7c k2 was not qualified to be assigned as the CFL because of his two BCA failures, b6 b7c k2, the previous NHC Patuxent River CO, maintained two CFLs, b6 b7c k2 and b6 b7c k2 in writing, and allowed b6 b6 b7c k2 to manage the PRP until her change of command and retirement on 23 September 2011.

(6) As a result of b6 b7c k2 failure to ensure compliance with the OPNAVINST 6110.1J, b6 b7c k2, unqualified, untrained, and uncertified to be a b6, was allowed to manage and influence the NHC Patuxent River PRP from her assumption of command on 23 September until 4 April 2012 when the b6, b6 b7c k2, canceled b6 b6 b7c k2 access to PRIMIS.

(7) Due to b6 b7c k2 failure to enforce the standards of OPNAVINST 6110.1J, not assigning a certified CFL to manage the command's PRP, portions of the 2nd cycle 2011 semi-annual PFA were not conducted in accordance with the instruction and the Operating Guide, safety requirements were not adhered too, and the integrity of the command's PRP was compromised, which placed members of the command at risk.

(8) As the (b)(6), (b)(7)(c) b6 b7c k2 failed to ensure the program complied with the guiding directive and he did not allow b6 b7c k2, the b6, to administer and execute the command's PRP in compliance with the OPNAVINST 6110.1J. This resulted in serious program deficiencies.

(9) Although not the b6 or an b6 b7c b6 b7c k2 allowed b6 b7c k2 to present the command's PRP to the MEDIG inspector during the March 2012 MEDIG inspection. This lack of responsible, intrusive leadership by b6 b7c k2, coupled with her disregard for the PRP requirements as set forth in the OPNAVINST 6110.1J created an environment where the lack of personal and program integrity went unchecked.

(10) b6 b7c k2 showed no leadership, showed no interest, and made no effort to know and understand the NHC Patuxent River's PRP. She did not bother to read the 2nd cycle 2011 PFA Notification released to all military members of the command, which provided the requirements and established dates for the 2nd cycle PFA.

(11) Although she stated that she was not familiar as she should be with the PRP, evidence showed that b6 b7c k2 was very familiar with the Navy's PRP at her previous command, NHC Quantico, VA, where she served as the b6 b7c k2.

(12) According to b6 b7c k2 b6 b7c k2 shared with her that as the b6 b7c k2 at NHC Quantico it was normal for her to complete the PFA at the very end of the cycle

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(13) b6 b7c k2 has had a history of being at the upper limits of the BCA standard and according to her previous b6 b7c k2 struggled to stay within BCA standards.

(14) After b6 b7c k2 assumed command of NHC Patuxent River, members of the command commented to b6 b7c k2 that she [b6 b7c k2] appeared out of BCA standards.

(15) b6 b7c k2 failed to set the example for the members of her command by waiting until the very last day of the cycle that she was available before going on leave, 72 days after the regular scheduled 2nd cycle 2011 PRT, to take her PRT.

(16) Based on her history of struggling to meet BCA standards and taking the PFA at the end of the cycle, it is likely that b6 b7c k2 delayed taking her 2nd cycle 2011 PFA until she could pass the PFA.

(17) b6 b7c k2 knew that b6 b7c k2 was not the b6 or an b6 b7c prior to her PRT b6 b6 informed b6 b7c k2 that he was the b6 on or about 15 September 2011.

(18) b6 b7c k2 allowed b6 b7c k2, who was unqualified, untrained and uncertified to be a b6 or b6, to conduct her PRT on 23 Dec 2011.

(19) b6 b7c k2 PRT was conducted without the OPNAVINST 6110.1J required safety precaution; an observer qualified in CPR, which placed her and the b6 at risk.

(20) b6 b7c k2 PRT was not conducted in accordance with the direction provided in the Fall 2011 PFA Notification signed by b6 b7c k2, which required that any personnel not able to participate in the scheduled command PFA will be tested during the FEP mock PFA's.

(21) The PRIMIS electronic record reflects b6 b7c k2 2nd cycle 2011 PRT results as 'Good'.

(22) Neither b6 b7c k2 nor b6 b7c k2, who stated that she took the PRT with b6 b7c k2 on 23 December 2011, identified any witnesses that could attest that they took the PRT.

(23) The Naval Air Station Patuxent River fitness center logs for 23 December 2011 had been recycled and were unavailable, therefore, there was no record that b6 b7c k2 entered the fitness center on that date to take her 2nd cycle 2011 PRT.

(24) b6 b7c k2 conducted other 2nd cycle 2011 PRTs after the regularly scheduled PRTs without the required safety precaution, qualified observers, placing members of the command at risk.

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(25) b6 b7c k2 took no discernible action to remove b6 b7c k2 from influencing the command's PRP despite being notified by the MEDIG during the command inspection 6-9 March 2012, of his [IO note: b6 b7c k2] misconduct during the 2nd cycle 2011 PFA, which included falsification of his own PFA results. b6 b7c k2 access to PRIMIS was not canceled until 4 April 2012.

(26) Although she was informed of substantive deficiencies in the command's PRP during the MEDIG Inspection 6-9 March 2012, b6 b7c k2 made little effort to ensure the command's 1st cycle 2012 PFA was conducted in accordance with OPNAVINST 6110.1J.

(27) Numerous improprieties, to include falsification of BCA results by an ACFL were found during a MEDIG follow-up inspection conducted from 7-10 May 2012 of the command's 1st cycle 2012 PFA.

(28) Further evidence of b6 b7c k2 disregard for PRP standards, include the fact that she presented for the 1st cycle 2012 PRT out of uniform and asked the CFL if she could read while riding the stationary cycle.

(29) b6 b7c k2 made a false statement during her re-interview when asked about her knowledge b6 b7c k2 improprieties concerning the 2nd cycle 2011 PFA. During her re-interview on 10 May 2012, when asked if b6 b7c k2 or b6 b7c k2 ever informed her b6 b7c k2 improprieties during the 2nd cycle 2011 PFA, b6 b7c k2 stated, "No." This statement conflicts with her [b6 b7c k2] initial testimony where she acknowledged that b6 b7c k2 had informed her b6 b7c k2 PFA improprieties and it conflicts with b6 b7c k2 testimony that she spoke to b6 b7c k2 about b6 b7c k2 PFA issues during or immediately after the MEDIG inspection.

(30) As the b6 NHC Patuxent River, it was b6 b7c k2 duty and responsibility to know and understand the requirements of the PRP, to include knowing who was assigned as the CFL.

(31) b6 b7c k2 failed to obey OPNAVINST 6110.1J, in that as the b6 she failed to ensure the command's PRP complied with the instruction. b6 b7c k2 allowed an unqualified, untrained, uncertified individual to conduct her PRT, which was not in compliance with the instruction.

(32) As the b6 NHC Patuxent River, b6 b7c k2 had knowledge OPNAVINST 6110.1J had been issued and that it was her duty to obey the instruction.

(33) As the b6 NHC Patuxent River, b6 b7c k2 was derelict in the performance of her duties by not obeying OPNAVINST 6110.1J.

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a. Based on a preponderance of the evidence, the allegation that b6 b7c k2, b6 b6 b6 NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing b6 b6 b7c k2, b6, not the b6 or an b6 b7c k2, to administer her 2nd Cycle CY11 Physical Readiness Test (PRT) in violation of the Uniformed Code of Military Justice (UCMJ), Article 92, Failure to Obey Order or Regulation is **substantiated**.

b. **Recommendations.** Take appropriate action to hold b6 b7c k2 accountable.

c. **Disposition.** Forward to b6 b7c k2 Chain of Command for appropriate action.

4. **Second Allegation.** That b6 b6 b6 b7c k2 b6 NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing b6 b7c k2, b6, not the b6 or an b6 b7c, to administer her 2nd Cycle CY11 official Body Composition Assessment (BCA) in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

Facts

(1) As stated in the First Allegation.

(2) OPNAVINST 6110.1J, Enclosure (1) paragraph 7 states in part,

BCA. The BCA portion of the PFA is passed (within BCA standards) when a member is within established Navy body composition assessment standards.

a. *BCA Standards. Navy body composition standards are determined by established maximum weight for height standards. If an individual exceeds the weight for height screen, the circumference technique shall be used per the Operating Guide to determine body fat percentage. Individuals who are within standards via the height and weight measurement are exempt from the circumference calculation procedure.*

b. *PRIMS is the official source to determine the percent fat estimation for men and women. The BCA tables contained in the Physical Readiness Program Operating Guide may be used as an on-site reference.*

c. *COs and officers in charge should specify the required uniform - uniform of the day or Navy physical training uniform - that will be worn during official and unofficial height and weight screening and circumference measurements.*

d. *Official BCA. An official BCA is a BCA conducted during the command PFA cycle or after the command PFA cycle for members without a PFA record for the current cycle.*

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(1) One-on-one BCAs are not authorized. A CFL or trained ACFL and trained observer must be present;

(2) Only a designated and certified CFL or trained ACFL can administer the BCA for an official PFA.

(3) UCMJ, Article 92, Failure to Obey Order or Regulation, states, "Any person subject to this chapter who,

(a) violates or fails to obey any lawful general order or regulation;

(b) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(c) is derelict in the performance of his duties; shall be punished as a court-martial may direct.

(4) OPNAVINST 6110.1J states that: (1) an official BCA is a BCA conducted during the command PFA cycle or after the command PFA cycle for members without a PFA record for the current cycle; (2) one-on-one BCAs are not authorized; (3) A CFL or trained ACFL and trained observer must be present; and (4) only a designated and Certified CFL or trained ACFL can administer the BCA for an official PFA.

(5) When asked to describe how her BCA [IO note: 2nd cycle 2011 BCA] was administered, b6 b6 b7c k2 stated, "My BCA was conducted by my b6 b7c k2; b6 b7c k2, who had identified to me that she had been a b6 and knew the mechanisms and requirements associated so we did that. I don't recall if there was anyone else with us. I don't believe there was because again it was near the beginning of the holiday leave period and I was to complete it before I went on leave as well."

(6) When asked if she believed it was just her and the b6 b7c k2 when she did the [BCA] measurements, b6 b7c k2 stated that, "It was in my office and I believe it was she and I."

(7) When asked if she was aware that single [IO note: one-on-one measurements] BCA measurements are not authorized, b6 b7c k2 stated, "I didn't know when it was the same gender person. I know in the past when I've had to be measured and it was a male that there was a third party there. So I didn't recognize it, so that's my fault."

(8) When asked if she knew who administered the b6 BCA [IO note: 2nd cycle 2011 BCA], b6 b7c k2 stated, "I did because when she went down there b6 b7c k2 said, now you can you do it, and I just, I had confidence in my b6 and that was my mistake on that one."

(9) When asked where she administered the b6 BCA, b6 b7c k2 stated, "In health promotions where we weigh in everybody."

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(10) When asked where b6 b7c k2 administered b6 b7c k2 BCA, b6 b7c k2 said in health promotions.

(11) When confronted with the fact that her testimony that her BCA, not including height and weight, was administered in her office by b6 b7c k2 conflicted with b6 b7c k2 testimony that the BCA was conducted in health promotions, b6 b7c k2 stated, "On advice of counsel, I choose not to respond to that question."

(12) According to b6 b7c k2, she was not designated by the command or qualified as a CFL, or a trained ACFL, and there were no other observers present when she administered b6 b7c k2 cycle 2011 BCA.

(13) When asked why she took the advice of b6 b7c k2 who was not a CFL and if she did not know that the BCA had to be done by a CFL or ACFL, b6 b7c k2 stated, "I didn't remember because in Spain [IO note: Spain was b6 b7c k2 previous duty station, nearly 4 years ago] we would have different people and I honestly didn't recall."

(14) During the MEDIG inspection 6-9 March 2012, neither b6 b7c k2 as the command's primary PRP point of contact, nor b6 b7c k2 as the assigned b6 b7c k2 could produce written documentation of b6 b7c k2 2nd cycle 2011 PFA results.

(15) b6 b7c k2 [b6] stated that he did not receive the written results of b6 b7c k2 BCA until March 2012, nearly three months after the end of the 2nd cycle 2011.

(16) b6 b7c k2 [b6] stated that he did not input b6 b7c k2 official BCA information into PRIMS. He stated that b6 (b)(6), (b)(7)(c) entered the 2nd cycle 2011 PFA results into PRIMS on b6 b7c k2, b6 b7c k2, b6 b7c k2 and b6 b7c k2 with no evidence of written PFA documentation at the time of entry.

(17) PRIMS showed the following 2nd cycle (b)(6), (b)(7)(c)
(b)(6), (b)(7)(c)
(b)(6), (b)(7)(c)
(b)(6), (b)(7)(c)

(18) b6 b7c k2 BF (b)(6), (b)(7)(c) recorded on the form does not match the (b)(6), (b)(7)(c) recorded in PRIMS for the 2nd cycle 2011 BCA.

(19) b6 b7c k2 neck measurement of 14.5 inches recorded by b6 b7c k2 and recorded in PRIMS for the 2nd cycle PFA was (b)(6), (b)(7)(c) 1st cycle 2011 BCA.

(20) During her interview on 10 May 2012, b6 b7c k2 was presented b6 b7c k2 BCA record dated 22 December 2011 with her [b6 b7c k2 (b)(6), (b)(7)(c)] hand written height (b)(6), (b)(7)(c) recorded as well as three columns of measurements for her neck, waist and hips. b6 b7c k2 stated that she only took one set of BCA measurements. (b)(6), (b)(7)(c) were the [b6 b7c k2 (b)(6), (b)(7)(c)] BCA measurements she took

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and recorded. b6 b7c k2 stated that she did not write the BCA measurements recorded in the second and third columns on the BCA form and stated the measurements recorded in columns two and three were not her handwriting.

(21) During his interview on 10 July 2012, b6 b7c k2 was presented b6 b7c k2 BCA record dated 22 December 2011 with her [b6 b7c k2] hand written (b)(6), (b)(7)(c) as well as three columns of measurements for her neck, waist and hips. When informed that b6 b7c k2 only took one BCA measurement on b6 b7c k2 and asked if he filled in the data in the 2nd and 3rd columns even though b6 b7c k2 only measured her b6 b7c k2 and there was different data entered, b6 b7c k2 stated, "Correct."

(22) b6 b7c k2 signature appears at the bottom of the BCA form where there is a space titled 'member signature'. b6 b7c k2 signature appears at the bottom of the form where there is a space titled 'CFL Signature', even though he was not a certified CFL and did not observe b6 b7c k2 height, weight, or BCA measurements being taken. b6 b7c k2 signature does not appear anywhere on the form even though she administered b6 b7c k2 official BCA (column one BCA measurements) on the form.

(23) b6 b7c k2 sent the investigating officer an e-mail on 17 May 2012 indicating that she did not record or observe b6 b7c k2 height and weight. b6 b7c k2 stated in the e-mail, "those are not the measurements I took. Her waist is what I measure and I had never seen how much she weighed. If she was measured in her office, I know nothing about that."

(24) During her re-interview on 10 May 2012, b6 b7c k2 was presented the BCA Form with her 2nd cycle 2011 official BCA information recorded, which included three separate (columns) of BCA measurements, and was asked if it was her signature at the bottom of the form in the space titled 'Member Signature'. b6 b7c k2 stated, "Yes, that is my signature".

(25) When asked if the three different measurements for the BCA were conducted, b6 b7c k2 stated, "On the advice of counsel, I choose not to acknowledge that question." When it was explained to b6 b7c k2 that b6 b7c k2 only filled in one set of BCA measurements in the first column and then was offered the opportunity to comment about the fact that although she had gained weight, her waist measurement was one inch smaller than her previous official BCA she stated, "On the advice of counsel, I choose not to answer that question."

(26) When asked if she would like to comment on the fact that even though she had (b)(6), (b)(7)(c) PRIMs for the 2nd cycle 2011 PRT was the (b)(6), (b)(7)(c), b6 b7c k2 stated, "By the advice of counsel, I choose not to answer that question."

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(27) A b6 b7c k2, b6 b7c k2, was consulted concerning the two inch increase in the circumference of b6 b7c k2 neck from the 1st cycle 2011 to the 2nd cycle 2011 PFA, as well as the decrease in (b)(6), (b)(7)(c). b6 b6 b7c consulted b6 b7c k2 at Naval Health Research Command (NHRC) who contacted b6 b7c k2 (recently retired from NHRC), the author of the body composition equations. Upon review, they attributed b6 b7c k2 two inch neck increase in one PFA cycle to 'operator' error'. In addition, b6 b7c k2 e-mail stated that, "The Army was concerned about the use of strength training exercises on the neck circumference and commissioned the NHRC to do a study. After 12 weeks of strength training (3 times per week), the neck circumference increased only by 2 centimeters (less than one inch) and the difference was not significant from controls."

(28) According to her PRIMs record b6 b7c k2 has had a history of being at the (b)(6), (b)(7)(c)

(29) According to her previous b6 b6 b7c k2, b6 NHC Quantico, b6 b6 b7c k2 struggled to stay within BCA standards while serving as the b6 b7c k2, NHC Quantico b6 b7c k2 stated that she was, "Constantly urging her b6 b7c k2] to be taped, measured. I knew there were times where she was out of standards. It was courtesy measurements." b6 b7c k2 stated that she was not aware of any instances that b6 b7c k2 failed an official BCA.

(30) b6 b7c k2 stated that after the change of command, members of the command commented to her [b6 b7c k2] that b6 b7c k2 appeared out of BCA standards.

(31) According to b6 b7c k2, the MEDIG inspector that monitored the 1st cycle 2012 PFA, b6 b7c k2 presented past the designated BCA time established in her Spring PFA Notification to the command and was the last person in the command to obtain her BCA on 8 May 2012, the last scheduled day for BCAs.

(32) According to b6 b7c k2, b6 b7c k2 1st cycle 2012 official BCA was correctly administered. b6 b7c k2 recorded weight (b)(6), (b)(7)(c)

Analysis/Discussion/Conclusion.

(1) b6 b7c k2 allowed b6 b7c k2, unqualified, untrained and uncertified to act as the CFL, to manage and influence the NHC Patuxent River PRP. Due to b6 b6 b7c k2 failure to enforce the standards of OPNAVINST 6110.1J by not ensuring a certified CFL managed the command's PRP, portions of the 2nd cycle 2011 semi-annual PFA

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were not conducted in accordance with the instruction and the Operating Guide, PFA safety requirements were not adhered too, and the integrity of the command's PRP was compromised, which placed members of the command at risk.

(2) b6 b7c k2 who was not a CFL or ACFL, administered a one-on-one BCA on b6 b7c k2 without an observer present for the 2nd cycle 2011 BCA. b6 b6 b7c k2 2nd cycle 2011 official BCA was not administered in compliance with OPNAVINST 6110.1J.

(3) Despite a (b)(6), (b)(7)(c) from the 1st cycle 2011 PFA, b6 b7c k2 BF% for the 2nd cycle 2011 PFA (b)(6), (b)(7)(c) b6 b7c k2 since the 1st cycle 2008 PFA.

(4) b6 b7c k2 signed the BCA form dated 22 December 2011 containing presumably inaccurate data annotated on the form by b6 b7c k2. b6 b7c k2 only made (b)(6), (b)(7)(c)

(5) b6 b7c k2 signed the BCA form dated 22 December 2011 containing her 2nd cycle 2011 BCA measurements, which (b)(6), (b)(7)(c)

(6) According to a physiologist the (b)(6), (b)(7)(c) of b6 (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) from the 1st cycle 2011 PFA to the 2nd cycle 2011 PFA was a physical impossibility. Furthermore, the (b)(6), (b)(7)(c) in b6 b7c k2 (b)(6), (b)(7)(c)

(7) A consequence of b6 b7c k2 allowing b6 b7c k2, an unqualified, untrained and uncertified CFL to administer her 2nd cycle 2011 BCA was that inaccurate BCA measurements were recorded.

(8) b6 b7c k2 official BCA measurements were recorded on the BCA record dated 22 December 2011 and signed by b6 b7c k2 as the b6, even though he was unqualified, untrained and uncertified to be a CFL.

(9) Demonstrating further b6 b7c k2 disregard for PRP standards, she presented past the designated 1st cycle 2012 BCA time established in her Spring PFA Notification to the command and she was the last person in the command to obtain her BCA on 8 May 2012, the last scheduled day for BCAs.

(10) Another consequence of b6 b7c k2 non-compliance with the PRP standards set forth in OPNAVINST 6110.1J, was one of the command's b6 b7c b6 b7c, falsified her official BCA results for the 1st cycle 2012 PFA.

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(11) As the b6 NHC Patuxent River, it was b6 b7c k2 duty and responsibility to know, understand and comply with the requirements and standards of the PRP, to include knowing the standards for administering an official BCA.

(12) By allowing an b6 b7c k2, and individual unqualified, untrained, uncertified to be a b6, to administer her 2nd cycle 2011 BCA without an observer present; b6 b7c k2 failed to ensure the command's PRP complied with the instruction. b6 b6 b7c k2 did not comply with OPNAVINST 6110.1J.

(13) As the b6 NHC Patuxent River, b6 b7c k2 had knowledge OPNAVINST 6110.1J on the Navy's PRP was in effect and it was her duty to comply with the instruction.

(14) As the b6 NHC Patuxent River, b6 b7c k2 was derelict in the performance of her duties by failing to comply OPNAVINST 6110.1J. Her actions resulted in her failure to obey the Navy instruction that establishes the Navy PRP.

a. Based on a preponderance of the evidence, the allegation that b6 b7c k2, b6, b6, b6 NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing b6 b7c k2 b6 b7c k2, b6, not the b6 or an b6, to administer her 2nd Cycle CY11 official Body Composition Assessment (BCA) in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation is substantiated.

b. **Recommendations.** Take appropriate action to hold b6 b7c k2 accountable.

c. **Disposition.** Forward to b6 b7c k2 Chain of Command for appropriate action.

5. Third Allegation. That b6 b7c k2, NHC River, not a b6 or an b6 b7c k2, was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by administering b6 b7c k2 b6 b7c k2 official BCA during the command's 2nd cycle CY11 PFA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

Facts.

(1) As stated in the previous Allegations..

(2) UCMJ, Article 92, Failure to Obey Order or Regulation, states, "Any person subject to this chapter who,

(a) *violates or fails to obey any lawful general order or regulation;*

(b) *having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or*

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(c) is derelict in the performance of his duties; shall be punished as a court-martial may direct.

(3) On 15 July 2011 the NHC Patuxent River b6 b7c k2 sent the newly distributed OPNAVINST 6110.1J via e-mail to b6 b7c k2, b6 b7c k2, and b6 b7c k2. The e-mail read, "Good Morning b6 b7c k2, New Physical Readiness Program Instructions "hot off the press" for your review prior to wide dissemination to all military staff. VR//DFA"

(4) OPNAVINST 6110.1J states that: (1) an official BCA is a BCA conducted during the command PFA cycle or after the command PFA cycle for members without a PFA record for the current cycle; (2) one-on-one BCAs are not authorized; (3) A CFL or trained ACFL and trained observer must be present; and (4) only a designated and Certified CFL or trained ACFL can administer the BCA for an official PFA.

(5) When asked to describe how her BCA was administered, b6 b7c k2 stated, "My BCA was conducted by my b6 b7c k2, b6 b7c k2, who had identified to me that she had been ab6 and knew the mechanisms and requirements associated so we did that."

(6) When asked by the b6 b7c k2 b6 b7c k2, during the NHC Patuxent River command inspection 6-9 March 2012 who conducted b6 b7c k2 2nd cycle 2011 BCA, b6 b7c k2 stated that she administered b6 b7c k2 BCA.

(7) When asked if she knew who administered the b6 BCA [IO note: 2nd cycle 2011 BCA], b6 b7c k2 stated, "I did because when she went down there b6 b7c k2 said, now you can you do it, and I just, I had confidence in my (b)(6), (b)(7)(c) and that was my mistake on that one."

(8) When asked why she took the advice of b6 b7c k2 who was not a b6 and if she did not know that the BCA had to be done by a b6 or b6 b7c, b6 b7c b6 b7c k2 stated, "I didn't remember because in Spain [IO note: Spain was b6 b7c k2 previous duty station, nearly 4 years ago] we would have different people and I honestly didn't recall."

(9) During her 10 May 2012 interview when asked how she would characterize b6 b6 b7c k2 integrity, b6 b7c k2 stated, "I have to second guess everything he does. And there are other issues that just came up that just – so I have to – one of the hardest things is – I'm going to talk about trust. I trust your team, what you call them, so with b6 b6 b7c k2, I did trust him and he is probably one of the – really the one that I can that when it comes to blanket trust, I can't because we'll – you know, you portray one thing, but I'm constantly – he's saying yes, but the yes is a no."

(10) When asked where she administered the b6 BCA, b6 b7c k2 stated, "In health promotions where we weigh in everybody."

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(11) When asked where b6 b7c k2 administered b6 b7c k2 BCA, b6 b7c k2 stated that it was done in health promotions.

(12) When asked where her 2nd cycle 2011 BCA was administered, b6 b7c k2 stated that it was done in her office.

(13) According to b6 b7c k2, she was not designated by the command or qualified as a b6, or a trained b6, when she administered b6 b7c k2 2nd cycle 2011 BCA.

(14) When informed by the b6 b7c k2, b6 b7c k2 that she should have known that was wrong because she was not a certified b6, b6 b7c k2 stated, "Yes, we knew that."

(15) During her 10 May 2012 interview when asked if she acknowledged to the b6 b7c b6 b7c that it was wrong for her to administer b6 b7c k2 BCA, b6 b7c b6 b7c k2 stated, "Yes, Yes, sir."

(16) Both b6 b7c k2 and b6 b7c k2 admitted that there were no observers present when b6 b7c k2 BCA measurements were taken.

(17) When asked during her interview to provide her understanding of the key aspects of the PFA based on the OPNAVINST 6110.1J, b6 b7c k2 stated, "I know that the overall responsibility as commanding officer and all the b6 have to be the – the b6 b7c k2 b6 has to be trained and then we have assistant b6."

(18) When asked when the last time was that she was assigned as a b6 b6 b7c b6 b7c k2 stated, "2000 – when I took over – in 2005."

(19) PRIMIS showed (b)(6), (b)(7)(c)

(20) During her interview on 10 May 2012, b6 b7c k2 was presented b6 b6 b7c k2 BCA record dated 22 December 2011 with (b)(6), (b)(7)(c)

b6 b7c k2 stated that she only took one set of BCA measurements. She stated that the first column of measurements (b)(6), (b)(7)(c) were the [b6 b7c k2] BCA measurements she took and recorded. b6 b7c b6 b7c k2 stated that she did not write the BCA measurements recorded in the second and third columns on the BCA form and stated the measurements recorded in columns two and three were not her handwriting.

(21) b6 b7c k2 sent the investigating officer an e-mail on 17 May 2012 indicating that she did not record or observe b6 b7c k2 height and weight. b6 b7c b6 b7c k2 stated in the e-mail, "those are not the measurements I took. Her waist is what I

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measure and I had never seen how much she weighed. If she was measured in her office, I know nothing about that.”

(22) During her re-interview on 10 May 2012, b6 b7c k2 was presented the BCA form with her 2nd cycle 2011 official BCA information recorded, which included three separate (columns) of BCA measurements, and was asked if it was her signature at the bottom of the form in the space titled ‘Member Signature’. b6 b7c k2 stated, “Yes, that is my signature”.

(23) When asked if the three different measurements for the BCA were conducted, b6 b7c k2 stated, “On the advice of counsel, I choose not to acknowledge that question.” When it was explained to b6 b7c k2 that b6 b7c k2 only filled in one set of BCA measurements in the first column and then was offered the opportunity to comment about the fact that although she had gained weight, her waist measurement was one inch smaller than her previous official BCA she stated, “On the advice of counsel, I choose not to answer that question.”

(24) A physiologist, b6 b7c k2, was consulted concerning the (b)(6), (b)(7)(c) . b6 b7c consulted b6 b7c k2 at Naval Health Research Command (NHRC) who contacted b6 b7c k2 (recently retired from NHRC), the author of the body composition equations. Upon review, they attributed b6 b7c k2 two inch neck increase in one PFA cycle to ‘operator’ error. In addition, b6 b7c k2 email stated that, “The Army was concerned about the use of strength training exercises on the neck circumference and commissioned the NHRC to do a study. After 12 weeks of strength training (3 times per week), the neck circumference increased only by 2 centimeters (less than one inch) and the difference was not significant from controls.”

(25) According to PRIMIS [electronic PFA record], b6 b7c k2 presented at (b)(6), (b)(7)(c) .

(26) b6 b7c k2 was listed as the command’s point of contact on all three applications, submitted by b6 b7c k2, for b6 b7c k2 to attend CFL certification courses.

Analysis/Discussion/Conclusion.

(1) b6 b7c k2 was aware of the issuance of OPNAVINST 6110.1J. She was provided an electronic copy of the OPNAVINST 6110.1J on 15 July 2011 by the Director For Administration NHC Patuxent River.

(2) b6 b7c k2 2nd cycle 2011 official BCA was not administered in compliance with OPNAVINST 6110.1J. b6 b7c k2, who was not a CFL or ACFL, administered

a one-on-one BCA on b6 b7c k2 without an observer present for the 2nd cycle 2011 BCA.

(3) As she stated to the b6 b7c k2 in March 2012 and to the investigating officer on 10 May 2012, b6 b7c k2, not a CFL or ACFL, knew she was wrong and not in compliance with the OPNAVINST 6110.1J when she administered a one-on-one BCA on b6 b7c k2 and did so without the required observer present.

(4) (b)(6), (b)(7)(c)

(5) Consultation with the physiologist determined that (b)(6), (b)(7)(c) The physiologist attributed (b)(6), (b)(7)(c) in one PFA cycle to 'operator' [IO note b6 b7c b6 b7c] error.

(6) A consequences of an unqualified, untrained and uncertified individual [IO note: b6 b7c k2] administering a BCA is improper BCA measurements resulting in inaccurate conclusions.

(7) As a former b6 b6 b7c k2 was well aware of the requirement to have a CFL or ACFL administer a BCA.

(8) For b6 b7c k2 to refer back to how PFAs were conducted in Spain, three years earlier, to avoid taking accountability for administering b6 b7c k2 BCA was disingenuous. b6 b7c k2 had taken numerous PFA's while assigned to NHC Patuxent River and was well aware of the standards.

(9) As the b6 b7c k2 of the command where one of her b6 b7c k2, b6 b7c k2, was assigned as the b6 b6 b7c k2, b6 b7c k2 was responsible for knowing and understanding the requirements of the OPNAVINST 6110.1J.

(10) As the b6 b7c k2 and point of contact for the command for three applications for b6 b7c k2 to attend the CFL course, b6 b7c k2 was aware of the PRP standards.

(11) As the b6 b6 and senior enlisted member of NHC Patuxent River, it was b6 b7c b6 b7c k2 responsibility to know, understand and comply with the requirements and standards of the PRP, to include knowing the standards for administering an official BCA.

(12) b6 b7c k2 failed to execute OPNAVINST 6110.1J, b6 b7c k2 was not a qualified, trained or certified b6 b6 and as the b6 b6 she failed to comply with the instruction by administering b6 b7c k2 2nd cycle 2011 BCA.

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(13) b6 b7c k2 had knowledge that OPNAVINST 6110.1J on the Navy's Physical Readiness Program was in effect and it was her duty to obey the instruction.

(14) As the b6 NHC Patuxent River, b6 b7c k2 was derelict in the performance of her duties by knowingly not complying with OPNAVINST 6110.1J. Her actions resulted in her failure to obey the Navy instruction that establishes the Navy PRP.

a. Based on a preponderance of the evidence, the allegation that b6 b7c k2 b6 b7c k2, b6, b6, NHC River, not a b6 or an b6, was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by administering b6 b7c k2 official BCA during the command's 2nd cycle CY11 PFA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation is substantiated.

b. **Recommendations.** Take appropriate action to hold b6 b7c k2 accountable.

c. **Disposition.** Forward to b6 b7c k2 Chain of Command for corrective action as appropriate.

6. **Fourth Allegation.** That b6 b7c k2, b6, b6, NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing b6 b7c k2, not the b6 or an b6, to administer her 2nd Cycle CY11 PRT in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

Facts.

(1) As stated in the Previous Allegations.

(2) OPNAVINST 6110.1J, Enclosure (1) paragraph 8 states in part,

8. *PRT. The PRT is passed when a member scores satisfactory or above in all events.*

a. *Administration. The PRT shall only be administered by designated and certified CFLs and trained ACFLs. All personnel participating in the PRT shall wear Navy PTU.*

b. *Participation. Member is medically cleared to participate in the PRT and the BCA is passed.*

c. *Alternate Cardio Events. The swim, elliptical and bike are alternate cardio events. Participation in an alternative cardio-respiratory event is not an entitlement. The OPNAVINST 6110.1J 11 JUL 2011 Operating Guide provides detailed information on the use and testing procedures for the cardio-respiratory alternative events.*

d. *Scoring. Each PRT event is scored for five levels of performance and*

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assigned points based on performance:

- (1) Outstanding: 90 to 100 points;*
- (2) Excellent: 75 to 89 points;*
- (3) Good: 60 to 74 points;*
- (4) Satisfactory: 45 to 59 points; and*
- (5) Failure: 44 points or below.*

(e) The CFL is responsible for conducting a safe PRT and shall complete the PFA checklist in the Operating Guide. All events of the PRT shall be performed per the Operating Guide.

(f) One-on-one PRT are not authorized. Every PRT must have a CFL or ACFL and one qualified CPR monitor present per every 25 participants.

(g) All PRTs shall begin with the pre-physical activity questions to Determine whether there have been any changes in medical status since completion of the NAVPERS 6110/3.

(h) The CFL or ACFL will lead the participants in a 5 to 10 minute dynamic warm-up. Appropriate exercises are described in the Operating Guide.

(i) All PRT events shall be completed on the same day, and in the following sequence: warm-up, curl-ups, push-ups, cardio-respiratory event (run or walk, swim, elliptical trainer or stationary bike), and cool-down.

(j) Following completion of the PRT events, the CFL or ACFL shall ensure participants perform recommended cool-down exercises and sign the official PRT score sheet.

(3) UCMJ, Article 92, Failure to Obey Order or Regulation, states, "Any person subject to this chapter who,

(a) violates or fails to obey any lawful general order or regulation;

(b) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(c) is derelict in the performance of his duties; shall be punished as a court-martial may direct.

(4) On 15 July 2011 the NHC Patuxent River Director For Administration (DFA), b6 b7c k2 sent the newly distributed OPNAVINST 6110.1J via email to b6 b7c k2, b6 b7c k2, and b6 b7c k2. The email read, "Good Morning b6 b7c r/b6 /b6, New Physical Readiness Program Instructions "hot off the press" for your review prior to wide dissemination to all military staff. VR//DFA"

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(5) When asked if he volunteered to be the b6 , b6 b7c k2 stated, "I did. b6 [IO note: b6 b7c k2] asked me to be b6 , and I said yes. After I missed body fat in April [IO note: the date was actually 9 May 2012], I was floored. I was losing weight, I was running, my neck shrank, and I missed body fat by one percent. (b)(6), (b)(7)(c)

And when asked who told him he had to stay on [IO note: as b6], b6 b7c k2 stated, "b6 [IO note: b6 b7c k2] and b6 b7c k2 at that time."

(6) When asked if he ever discussed not being qualified to be a b6 with b6 b7c b6 b7c k2, b6 b7c k2 stated, "I asked to be relieved from the program [IO note: PRP as the b6], and I was told [IO note: by b6 b7c k2], no, you are just going to keep doing it."

(7) b6 b7c k2 stated that b6 b7c k2 conducted her 2nd cycle 2011 PFA [IO note: BCA 22 December 2011 and PRT on 23 December 2011].

(8) When asked if b6 b7c k2 conducted her 2nd cycle 2011 PRT, b6 b7c b6 b7c k2 stated, "Yes, sir."

(9) When asked if he administered the PFA, BCA and PRT, for the b6 [Io note: b6 b7c k2], b6 b7c k2 stated, "She made weight. I administered her PRT."

(10) When asked if she [IO note: b6 b7c k2] took the PRT on 23 December 2011, b6 b7c k2 stated, "Correct."

(11) b6 b7c k2 PRT was not conducted during a FEP mock PFA as required by the Fall 2011 PFA Notification signed by b6 b7c k2 , which required that, "Any personnel not able to participate in the scheduled command PFA will be tested during the Fitness Enhancement Program (FEP) mock PFA's."

(12) Both b6 b7c k2 and b6 b7c k2 stated that there were no observers present, other than b6 b7c k2 , when they conducted their PRTs together on 23 December 2011.

(13) When asked if anyone else was present when b6 b7c k2 and b6 b6 b7c k2 took their PRTs, b6 b7c k2 stated, "No."

(14) According to a written note from the NHC Patuxent River IG representative b6 b6 b7c k2 , the station fitness center patron sign-in logs for 23 Dec 2011 were re-cycled and were no longer available.

(15) The PFA form dated 23 December 2011, signed by b6 b7c k2 as the observer, but not signed by b6 b7c k2 , contains the following PRT results for b6 b7c k2 : (b)(6), (b)(7)(c) as the amount of calories expended.

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(16) PRIMS shows that b6 b7c k2 took the PRT test on 23 December 2011 with a PRT result of (b)(6), (b)(7)(c)

(17) b6 b7c k2 stated that b6 b7c k2 entered b6 b7c k2 2nd cycle 2011 PRT results in PRIMS .

(18) When asked to verify on the PRIMS form that he entered b6 b7c k2 and b6 b7c k2 2nd cycle 2011 PRT and BCA results, b6 b7c k2 stated, Yes.”

(19) b6 b7c k2 , the b6 , stated that the PFA form with the hand recorded results of b6 b7c k2 PRT was provided to him in March 2012, over two months after the 2nd cycle 2011 PFA ended.

(20) When asked if he generated the forms with hand written results of the b6 b6 b7c b6 b7c k2] and the b6 b7c [b6 b7c k2] BCA and PRT results after the MEDIG Inspection in March 2012, b6 b7c k2 stated, “I did not generate any paperwork after the inspection.” When asked who had the information and where he found it, b6 b6 b7c k2 stated, “I think it was in one of my folders that I just didn’t – hadn’t given to b6 yet.”

(21) When asked during her interview to provide her understanding of the key aspects of the PFA based on the OPNAVINST 6110.1J, b6 b7c k2 stated, “I know that the overall responsibility as commanding officer and all the CFLs have to be the – the b6 b7c k2 b6 has to be trained and then we have assistant CFLs.”

(22) When asked about b6 b7c k2 being the b6 , b6 b7c b6 b7c k2 stated, “b6 b6 b7c k2. I know that they wanted to – what b6 b7c k2 did is she wanted b6 b6 b7c k2 to do a cycle with, the last cycle with b6 b7c k2 and he was going to go to the training and she decided to keep him and he would go to the training and when he went to the first – when the first training was first set, I don’t know if it was, something came up and he went to her himself and talked to the Captain and said I’ll go to the next class and she said yes; and he went to that class he was out of body fat and he came back to her and I said, you know what, b6 b7c k2 , you can’t be out of body fat and Captain said well, let him go, b6 b7c k2 let him go to the next class. So when he went to the next class I think I was, I don’t know if I was TAD. I wasn’t here, and someone called me and said b6 b7c k2 measured out at body fat, I said, uh-huh, read the instruction, he can’t be the b6 , make sure that b6 has a letter that says he is the b6 .”

(23) When asked about b6 b7c k2 conducting her PRT when she knew he was not the b6 , b6 b7c k2 stated, “But the thing with the CFL we knew and it was something that the b6 and b6 and like we say with b6 b7c k2 that he was going to the training so hindsight 20/20, it was something that the b6 approved with him, so it was a decision that was made with b6 b7c k2 and b6 b7c k2 and I’ll be honest with you, I just didn’t question it.”

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(24) When asked about b6 b7c k2 not being a qualified b6 when he administered her PFA, b6 b7c k2 stated, "It didn't dawn on me that he wasn't. I mean, that's what I am saying. It didn't – it should have, yes."

(25) When asked if it was not her responsibility as the b6 b7c k2 to ensure the b6 had a correct [qualified] b6 assigned, b6 b7c k2 stated, "Yes, sir."

(26) When asked if it was her responsibility as the b6 b7c k2 to ensure the b6 was advised that someone who is not [qualified] shouldn't be assigned, b6 b7c k2 stated, "Yes, sir....to protect the b6"

(27) When offered to make a comment on b6 b7c k2 administering the BCA [height and weight] for the b6 [b6 b7c k2] and administering the PRT for the b6 [b6 b7c k2] and the b6, b6 b7c k2 stated, "That shouldn't have happened. Certainly, the b6 ...knew that b6 b7c k2 wasn't able to become b6. My understanding was that, including at that time, that b6 b7c k2 was the b6."

Analysis/Discussion/Conclusion.

(1) By her own statements, b6 b7c k2 was familiar with the standards of the Navy PRP, as it was her responsibility as the senior enlisted member of the command.

(2) b6 b7c k2 provided conflicting testimony about b6 b7c k2 conducting her PRT. In one statement b6 b7c k2 says that she understands the OPNAVINST and states that b6 b7c k2 is not qualified and can't be the b6 and states that she made sure that b6 b7c k2 had a letter designating him as the b6. In another statement, when it supports the line of IO questioning and her decision to allow b6 b7c k2 to conduct her 2nd cycle 2011 PRT, she states that, "It didn't dawn on me that he [Io note: b6 b7c k2] wasn't [Io note: A b6]."

(3) For b6 b7c k2 to refer back to how PFAs were conducted in Spain approximately 3 years earlier to avoid taking accountability for allowing b6 b7c k2 to conduct her PRT and for administering b6 b7c k2 BCA was disingenuous. Based on the fact that she was assigned as a CFL in Spain and that she had taken numerous PFAs while assigned as the b6 for NHC Patuxent River, she was familiar with the PFA standards and requirements set forth in the OPNAVINST 6110.1J.

(4) As the b6 and senior enlisted member of NHC Patuxent River and a member of the command leadership Triad, it was b6 b7c k2 duty to know, understand and comply with the requirements and standards of the PRP, to include knowing the standards for conducting a PRT.

(5) b6 b7c k2 had knowledge the OPNAVINST 6110.1J on the Navy's Physical Readiness Program was in effect. b6 b7c k2 was sent the newly released OPNAVINST 6110.1J on 15 July 2011 by the DFA.

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(6) b6 b7c k2 failed to comply with the OPNAVINST 6110.1J on or about August 2011 by refusing to allow b6 b7c k2 to be relieved. b6 b7c k2 made the request to be relieved as b6 to b6 b7c k2 when he returned to NHC Patuxent River after being disenrolled from the August 2011 CFL course for BCA failure. At the time b6 b7c k2 denied b6 b7c k2 request to be relieved as b6, she knew that b6 b7c k2 was not qualified, trained or certified to be a b6.

(7) b6 b7c k2 failed to comply with OPNAVINST 6110.1J by allowing b6 b6 b7c k2, not a qualified, trained or certified b6, to conduct her 2nd cycle 2011 PRT.

(8) As the b6 NHC Patuxent River, b6 b7c k2 was derelict in the performance of her duties by negligently failing to follow OPNAVINST 6110.1J. Her actions resulted in her failure to obey the Navy instruction that establishes the Navy PRP. a. Based on a preponderance of the evidence, the allegation that b6 b7c k2 b6, NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing b6 b7c k2, not the b6 or an b6, to administer her 2nd Cycle CY11 PRT in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation is substantiated.

b. Recommendations. Take appropriate action to hold b6 b7c k2 accountable.

c. Disposition. Forward to b6 b7c k2 Chain of Command for corrective action as appropriate.

7. Fifth Allegation: That b6 b7c k2, b6, NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing b6 b7c k2, b6, not the b6 or an b6, to administer her 2nd Cycle CY11 official BCA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

Facts.

(1) As stated in the previous Allegations.

(2) OPNAVINST 6110.1J, Enclosure (1) paragraph 7 states in part,

BCA. The BCA portion of the PFA is passed (within BCA standards) when a member is within established Navy body composition assessment standards.

a. BCA Standards. Navy body composition standards are determined by established maximum weight for height standards. If an individual exceeds the weight for height screen, the circumference technique shall be used per the Operating Guide to determine body fat percentage. Individuals who are within standards via the height and weight measurement are exempt from the circumference calculation procedure.

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b. PRIMS is the official source to determine the percent fat estimation for men and women. The BCA tables contained in the Physical Readiness Program Operating Guide may be used as an on-site reference.

c. COs and officers in charge should specify the required uniform - uniform of the day or Navy physical training uniform - that will be worn during official and unofficial height and weight screening and circumference measurements.

d. Official BCA. An official BCA is a BCA conducted during the command PFA cycle or after the command PFA cycle for members without a PFA record for the current cycle.

(1) One-on-one BCAs are not authorized. A CFL or trained ACFL and trained observer must be present;

(2) Only a designated and certified CFL or trained ACFL can administer the BCA for an official PFA.

(3) UCMJ, Article 92, Failure to Obey Order or Regulation, states, "Any person subject to this chapter who,

(a) violates or fails to obey any lawful general order or regulation;

(b) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(c) is derelict in the performance of his duties; shall be punished as a court-martial may direct.

(4) On 15 July 2011 the NHC Patuxent River b6 b7c k2, b6 b7c k2 sent the newly distributed OPNAVINST 6110.1J via email to b6 b7c k2, b6 b7c k2, and b6 b7c k2. The email read, "Good Morning b6 b7c /b6 /b6, New Physical Readiness Program Instructions "hot off the press" for your review prior to wide dissemination to all military staff. VR//DFA"

(5) OPNAVINST 6110.1J states that an official BCA is a BCA conducted during the command PFA cycle or after the command PFA cycle for members without a PFA record for the current cycle. The instructions also states that: (1) One-on-one BCAs are not authorized; (2) A CFL or trained ACFL and trained observer must be present; and (3) Only a designated and certified CFL or trained ACFL can administer the BCA for an official PFA.

(6) When asked during her interview to provide her understanding of the key aspects of the PFA based on the OPNAVINST 6110.1J, b6 b7c k2 stated, "I know that the overall responsibility as commanding officer and all the CFLs have to be the – the Command CFL has to be trained and then we have assistant CFLs."

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(7) When asked about b6 b7c k2 being the b6 , b6 b7c k2 stated, "b6 b6 b7c k2. I know that they wanted to – what b6 b7c k2 did is she wanted b6 b6 b7c k2 to do a cycle with, the last cycle with b6 b7c k2 and he was going to go to the training and she decided to keep him and he would go to the training and when he went to the first – when the first training was first set, I don't know if it was, something came up and he went to her himself and talked to the Captain and said I'll go to the next class and she said yes. And he went to that class he was out of body fat and he came back to her and I said, you know what, b6 b7c k2 , you can't be out of body fat and Captain said well, let him go, b6 b7c k2 let him go to the next class. So when he went to the next class I think I was, I don't know if I was TAD. I wasn't here, and someone called me and said b6 b7c k2 measured out at body fat, I said, uh-huh, read the instruction, he can't be the b6 , make sure that b6 has a letter that says he is the b6 ."

(8) When asked if he volunteered to be the b6 , b6 b7c k2 stated, "I did. b6 [IO note: b6 b7c k2] asked me to be b6 , and I said yes. After I missed body fat in April [IO note: the date was actually 9 May 2012], I was floored. I was losing weight, I was running, my neck shrank, and I missed body fat by one percent. In August, when it happened again, I asked to be relieved, because I did not make the body fat standard. I did not make the CFL standard." And when asked who told him he had to stay on [IO note: as b6], b6 b7c k2 stated, "b6 [IO note: b6 b7c k2] and b6 b7c k2 at that time."

(9) When asked if he ever discussed not be qualified to be a b6 with b6 b7c b6 b7c k2 b6 b7c k2 stated, "I asked to be relieved from the program [IO note: PRP as the b6], and I was told [IO note: by b6 b7c k2], no, you are just going to keep doing it."

(10) b6 b7c k2 stated that b6 b7c k2 recorded her height at 64 inches and her weight at 154 pounds on the BCA form dated 22 December 2011. b6 b7c k2 confirmed her signature in the 'Member Signature' block of the form.

(11) When asked if he took b6 b7c k2 height and weight measurements, b6 b6 b7c k2 stated, "I don't remember."

(12) When showed the BCA form dated 22 December 2011 that contained b6 b7c b6 b7c k2 official 2nd cycle 2011 height and weight results, b6 b7c k2 confirmed that he signed the form in the 'CFL Signature' block.

(13) PRIMS shows that b6 b7c k2

(b)(6), (b)(7)(c)

(14) b6 b7c k2 stated that he entered b6 b7c k2 2nd cycle 2011 BCA results in PRIMS.

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(15) b6 b7c k2, the b6, stated that the PFA form with the hand recorded results of b6 b7c k2 BCA was provided to him in March 2012, over two months after the 2nd cycle 2011 PFA ended.

(16) When asked if he generated the forms with hand written results of the b6 s [b6 b6 b7c k2] and the b6 b7c b6 b7c k2 [b6 b7c k2] BCA and PRT results after the MEDIG Inspection in March, b6 b7c k2 stated, "I did not generate any paperwork after the inspection." When asked who had the information and where he found it, b6 b7c k2 stated, "I think it was in one of my folders that I just didn't -- hadn't given to b6 yet."

Analysis/Discussion/Conclusion.

(1) There is conflict in the testimony regarding who took b6 b7c k2 height and weight measurements. b6 b7c k2 testified that b6 b7c k2 took the measurements. b6 b7c k2 testified that he could not remember if he took b6 b7c b6 b7c k2 2nd cycle 2011 height and weight measurements. The handwritten height and weight measurements recorded on b6 b7c k2 BCA form appear to be in b6 b6 b7c k2 handwriting.

(2) b6 b7c k2 weight was in standard for her height, therefore BCA measurements were not required.

(3) b6 b7c k2 stated that he could not remember if he personally took b6 b7c b6 b7c k2 height and weight. b6 b7c k2 verified b6 b7c k2 2nd cycle 2011 height and weight [IO note: (b)(6), (b)(7)(c)] recorded on the Body Composition Assessment form dated 22 December 2011 by signing as the b6.

(4) b6 b7c k2 was not qualified, trained or certified to be assigned a b6 on 22 December 2011 and was therefore, not certified to sign the BCA form dated 22 December 2011 containing b6 b7c k2 height and weight results as the b6.

(5) In addition to statements from b6 b7c k2 and b6 b7c k2 that there were no observers present when b6 b7c k2 height and weight measurements were taken, documentary evidence supports their assertion that an observer was not present. The BCA form dated 22 December 2011 containing b6 b7c k2 2nd cycle 2011 BCA results, is not signed in the space reserved for the 2nd person observing the height and weight measurements. In addition to have an uncertified individual [IO note b6 b7c k2] designated as a b6 taking and/or verifying b6 b7c k2 measurements, they were taken as one-on-one measurements. Official one-on-one height and weight measurements are not authorized by the OPNAVINST 6110.1J.

(6) b6 b7c k2 verified her 2nd cycle 2011 BCA [height and weight] results by signing at the very bottom of her Body Composition Assessment form dated 22 December 2011, which contained hand written height and weight results, in the space titled 'member signature'.

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(7) b6 b7c k2 had knowledge the OPNAVINST 6110.1J on the Navy's Physical Readiness Program was in effect. b6 b7c k2 was sent the newly released OPNAVINST 6110.1J on 15 July 2011 by the DFA. b6 b7c k2 statement that, "I said, uh-huh, read the instruction, he can't be the b6, make sure that b6 has a letter that says he is the b6," after b6 b7c k2 was disenrolled from CFL course for BCA failure is further evidence that she was knowledgeable of the standards and requirements of the OPNAVINST 6110.1J.

(8) As the b6 and b6 b7c k2 of NHC Patuxent River and a member of the b6 b7c k2, it was b6 b7c k2 duty to know, understand and comply with the requirements and standards of the PRP as set forth in OPNAVINST 6110.1J, to include knowing the standards for administering the BCA component of the PFA.

(9) b6 b7c k2 failed to comply with the OPNAVINST 6110.1J on or about August 2011 by refusing to allow b6 b7c k2 to be relieved. b6 b7c k2 made the request to be relieved as b6 b7c k2 when he returned to NHC Patuxent River after being disenrolled from the August 2011 CFL course for BCA failure. At the time b6 b7c k2 denied b6 b7c k2 request to be relieved as b6, she knew that b6 b7c k2 was not qualified, trained or certified to be a b6.

(10) b6 b7c k2 knew that b6 b7c k2 was not a qualified, trained or certified b6 when he administered her BCA component of the 2nd cycle 2011 PFA.

(11) b6 b7c k2 failed to comply with OPNAVINST 6110.1J by allowing b6 b6 b7c k2 not a qualified, trained or certified b6,

(12) As the b6 NHC Patuxent River, b6 b7c k2 was derelict in the performance of her duties by negligently failing to follow OPNAVINST 6110.1J. Her actions resulted in her failure to obey the Navy instruction that establishes the Navy PRP.

a. Based on a preponderance of the evidence, the allegation that b6 b7c k2 b6 b7c k2 b6, b6, NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing b6 b7c k2 b6, b6, not the b6 or an b6, to administer her 2nd Cycle CY11 official BCA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation is substantiated.

b. Recommendations. Take appropriate action to hold b6 b7c k2 accountable.

c. Disposition. Forward to b6 b7c k2 Chain of Command for appropriate action.

8. Sixth Allegation. That b6 b7c k2, b6, NHC Patuxent River, while not the b6 or an b6 b7c k2, on or about 28 and 29 December 2011 with intent to deceive, to wit: submitted his own 2nd cycle PFA (BCA and PRT) results, which were false and were known by the said to be so false in violation of the UCMJ, Article 107, False Official Statements.

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Facts.

(1) UCMJ, Article 107, False official statements. Any person subject to this chapter who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false shall be punished as a court-martial may direct.

b. Elements.

(1) That the accused signed a certain official document or made a certain official statement;

(2) That the document or statement was false in certain particulars;

(3) That the accused knew it to be false at the time of signing it or making it;
and

(4) That the false document or statement was made with the intent to deceive.

(2) As stated in the First Allegation.

(3) According to the MEDIG PRP inspector's [(b)(6), (b)(7)(c)] Memorandum for the Record dated 12 March 2012, when asked who conducted his PFA, b6 b7c k2 stated, "I ran it myself."

(4) According to the MEDIG PRP inspector's [b6 b7c k2] Memorandum for the Record dated 12 March 2012, when b6 b7c k2 stated, "So you did not perform the PFA," b6 b7c k2 responded, "Yes."

(5) b6 b7c k2, b6, [IO note: Acting b6 NHC Patuxent River as of 29 July 2012] stated during his interview on 10 July 2012 that, "The date was last Thursday, which was -- looking for the date here -- July 5th. I spoke with b6 b7c k2 on that day, as I did all the other Chiefs, as an interview process for one-on-one interviews with every b6 b7c k2, and about our way ahead. And, at that time, I was telling him we are here for a specific reason. The Admiral placed us here for a specific job, and we are going to do that job, and we are held to a higher standard. And then he was telling me some things that he thought was wrong with this place, and I took some notes just to -- let me find them here. He was just telling me that the Chiefs had not received mid-term counseling, that decisions could not be made, and some suggestions about duty turnover. When we were done, he then offered to me what he had done. And, at that time, he had told me that he falsified his PRIMS and put his own data in there. Nobody did measurements on him, and if they would have, he would have been out of standards. And, at that time, I asked him where his honor, courage and commitment were. And then he told me that he had none at that time and he regretted what he did. And that's all he told me as far as the specific incident that we are talking about today."

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(6) During his interview on 10 July 2012, when asked if he completed his 2nd cycle 2011 PFA, b6 b7c k2 stated, "I did not." When asked if he took the 2nd cycle PRT, b6 b7c k2 stated, "I didn't do a PRT." When the IO stated, "You didn't measure yourself," b6 b7c k2 responded, "Correct."

(7) b6 b7c k2 signed the form in the space titled 'Member Signature' on the official BCA form dated 28 December 2011, which contained his 2nd cycle 2011 BCA results. b6 b7c k2 annotated the following BCA measurements on the form for his BCA results: (b)(6), (b)(7)(c) b6 b7c k2 testified the results annotated on the form were false. There is no CFL or observer signatures on the form, the spaces are blank.

(8) b6 b7c k2 wrote his name in the space titled 'Members Name,' and signed his name after on the space titled 'Signature' on the official 2nd cycle 2011 Physical Fitness Assessment form dated 29 December 2011. b6 b7c k2 annotated the following PRT results on form dated 29 December 2011: (b)(6), (b)(7)(c) . The observer's signature space is blank.

(9) During his interview on 10 July 2012, when shown his PFA forms that contained hand written results of his 2nd cycle PRT and BCA results that were provided to the IO by b6 b7c k2, the b6, and asked if he filled in the hand written results, b6 b7c k2 stated, "Yes." The IO then asked, "Even though you didn't take the PFA, PRT or BCA," to which b6 b7c k2 stated, "Correct."

(10) When shown the PRIMS report for the NHC Patuxent River 2nd cycle 2011 PFA and asked if he input the results of his PFA in PRIMS, b6 b7c k2 stated, "Yes." When the IO stated, "Which is false data," b6 b7c k2 stated, "Yes."

(11) When asked if there was anything else he would like to say during his 10 July 2012 interview, b6 b7c k2 stated, "I messed up. I mean, I -- I got embarrassed that I wasn't going to make weight, and I made up my stuff [IO note: 2nd cycle 2011 PFA (PRT and BCA) results], my results."

Analysis/Discussion/Conclusion.

(1) b6 b7c k2 testified under oath that he was not administered the 2nd cycle 2011 BCA. He testified that he recorded false 2nd cycle 2011 BCA measurements on the official Body Composition Assessment form dated 28 December 2011. b6 b7c k2 verified that he knowingly signed the form containing his false 2nd cycle 2011 BCA data.

(2) b6 b7c k2 testified under oath that he knowingly recorded false 2nd cycle 2011 results for his BCA in PRIMS, which is the Navy's official 2nd cycle 2011 PFA/BCA record.

(3) b6 b7c k2 testified under oath that he did not conduct the 2nd cycle 2011 PRT. He testified that he recorded false PRT results on the official 2nd cycle 2011 Physical Fitness Assessment form dated 29 December 2011. b6 b7c k2 verified that he knowingly signed the form containing his false 2nd cycle 2011 PRT results.

(4) b6 b7c k2 testified under oath that he knowingly recorded false 2nd cycle 2011 results for his PRT in PRIMS, which is Navy's official 2nd cycle 2011 PFA/PRT record.

(5) b6 b7c k2 knew it was wrong to submit false 2nd cycle 2011 results for his PFA (PRT and BCA components). He was embarrassed that he was out of BCA standard and intended to deceive the command leadership by reporting passing BCA and PRT results, known by him to be false on the official PRT and BCA forms, and in PRIMS.

a. Based on a preponderance of the evidence, the allegation that b6 b7c k2, b6, NHC Patuxent River, not the b6 or an b6 b7c, on or about 28 and 29 December 2011 with intent to deceive, to wit: submitted his own 2nd cycle PFA (BCA and PRT) results, which were false and were known by the said to be so false in violation of the UCMJ, Article 107, False Official Statements is **substantiated**.

b. **Recommendations.** Take appropriate action to hold b6 b7c k2 accountable.

c. **Disposition.** Forward to b6 b7c k2 Chain of Command for appropriate action

9. Seventh Allegation. That b6 b7c k2, NHC Patuxent River, while not the b6 or an b6 b7c, was derelict in the performance of his duties in that he negligently failed to follow OPNAVINST 6110.1J, as it was his duty by administering the 2nd cycle CY11 PFA on b6 b7c k2 and b6 b7c k2 in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

Facts.

(1) As stated in previous Allegations.

(2) OPNAVINST 6110.1J, Enclosure (1) paragraph 7 states in part,

BCA. The BCA portion of the PFA is passed (within BCA standards) when a member is within established Navy body composition assessment standards.

a. BCA Standards. Navy body composition standards are determined by established maximum weight for height standards. If an individual exceeds the weight for height screen, the circumference technique shall be used per the Operating Guide to determine body fat percentage. Individuals who are within standards via the height and weight measurement are exempt from the circumference calculation procedure.

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b. PRIMS is the official source to determine the percent fat estimation for men and women. The BCA tables contained in the Physical Readiness Program Operating Guide may be used as an on-site reference.

c. COs and officers in charge should specify the required uniform - uniform of the day or Navy physical training uniform - that will be worn during official and unofficial height and weight screening and circumference measurements.

d. Official BCA. An official BCA is a BCA conducted during the command PFA cycle or after the command PFA cycle for members without a PFA record for the current cycle.

(1) One-on-one BCAs are not authorized. A CFL or trained ACFL and trained observer must be present;

(2) Only a designated and certified CFL or trained ACFL can administer the BCA for an official PFA.

(3) OPNAVINST 6110.1J, Enclosure (1) paragraph 8 states in part,

8. PRT. The PRT is passed when a member scores satisfactory or above in all events.

a. Administration. The PRT shall only be administered by designated and certified CFLs and trained ACFLs. All personnel participating in the PRT shall wear Navy PTU.

b. Participation. Member is medically cleared to participate in the PRT and the BCA is passed.

c. Alternate Cardio Events. The swim, elliptical and bike are alternate cardio events. Participation in an alternative cardio-respiratory event is not an entitlement. The OPNAVINST 6110.1J 11 JUL 2011 Operating Guide provides detailed information on the use and testing procedures for the cardio-respiratory alternative events.

d. Scoring. Each PRT event is scored for five levels of performance and assigned points based on performance:

- (1) Outstanding: 90 to 100 points;*
- (2) Excellent: 75 to 89 points;*
- (3) Good: 60 to 74 points;*
- (4) Satisfactory: 45 to 59 points; and*
- (5) Failure: 44 points or below.*

(e) The CFL is responsible for conducting a safe PRT and shall complete

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the PFA checklist in the Operating Guide. All events of the PRT shall be performed per the Operating Guide.

(f) One-on-one PRT are not authorized. Every PRT must have a CFL or ACFL and one qualified CPR monitor present per every 25 participants.

(g) All PRTs shall begin with the pre-physical activity questions to Determine whether there have been any changes in medical status since completion of the NAVPERS 6110/3.

(h) The CFL or ACFL will lead the participants in a 5 to 10 minute dynamic warm-up. Appropriate exercises are described in the Operating Guide.

(i) All PRT events shall be completed on the same day, and in the following sequence: warm-up, curl-ups, push-ups, cardio-respiratory event (run or walk, swim, elliptical trainer or stationary bike), and cool-down.

(j) Following completion of the PRT events, the CFL or ACFL shall ensure participants perform recommended cool-down exercises and sign the official PRT score sheet.

(4) UCMJ, Article 92, Failure to Obey Order or Regulation, states, "Any person subject to this chapter who,

(a) violates or fails to obey any lawful general order or regulation;

(b) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(c) is derelict in the performance of his duties; shall be punished as a court-martial may direct.

(5) As stated in the First Allegation.

(6) As stated in the Second Allegation.

(7) As stated in the Fourth Allegation.

(8) As stated in the Fifth Allegation.

(9) According to b6 b7c k2 memorandum for the record dated 12 March 2012, when b6 b7c k2 was asked during the MEDIG Inspection in March 2012 who conducted b6 b7c k2 PFA, b6 b7c k2 stated that he conducted the PFA by himself. b6 b7c k2 stated he knew he should not have conducted the PFA on members of the command because he was not designated as either the b6 or b6.

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(10) According to b6 b7c k2 memorandum for the record dated 12 March 2012, when b6 b7c k2 was asked during the MEDIG Inspection who conducted her PFA, she stated that b6 b7c k2 had conducted her PFA in December [2011].

Analysis/Discussion/Conclusion.

(1) As stated by b6 b7c k2 and b6 b7c k2, b6 b7c k2 conducted b6 b7c k2 2nd cycle 2011 PRT on 23 December 2011.

(2) As stated by b6 b7c k2 and b6 b7c k2, b6 b7c k2 was not a certified b6 when he conducted b6 b7c k2 2nd cycle 2011 PRT on 23 December 2011.

(3) After being disenrolled from the CFL course in August 2011 for BCA failure, b6 b6 b7c k2 was no longer qualified, trained or certified to be assigned as a CFL.

(4) b6 b7c k2 was not qualified, trained, or certified as a b6 when he signed the official Physical Assessment form verifying b6 b7c k2 2nd cycle 2011 PRT results.

(5) As stated by b6 b7c k2 and b6 b7c b6 b7c k2, b6 b7c k2 conducted b6 b7c k2 2nd cycle 2011 PRT on 23 December 2011.

(6) As stated by b6 b7c k2 and b6 b7c k2, b6 b7c k2 was not a certified b6 when he conducted b6 b7c k2 2nd cycle 2011 PRT on 23 December 2011.

(7) b6 b7c k2 was not qualified, trained, or certified as a b6 when he signed the official Physical Fitness Assessment Form verifying b6 b7c k2 2nd cycle PRT results.

(8) As stated by b6 b7c k2, there were no witnesses or CPR qualified observers present when he conducted b6 b7c k2 and b6 b7c k2 PRTs on 23 December 2011.

(9) As stated by b6 b7c k2, b6 b7c k2 administered her 2nd cycle 2011 BCA on 22 December 2011. b6 b7c k2 stated he could not remember if he took b6 b7c k2 height and weight measurements. b6 b7c k2 did not require BCA measurements because her weight was within standard for her height.

(10) b6 b7c k2 was not qualified, trained, or certified as a CFL when signed his name on the official Body Composition Assessment Record dated 22 December 2011, which contained b6 b7c k2 height and weight measurements, in the space titled 'CFL Signature'.

(11) b6 b7c k2 and b6 b7c k2 stated that b6 b7c k2 administered b6 b7c k2 2nd cycle 2011 BCA.

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(12) b6 b7c k2 was designated in writing as a CFL on 26 July 2011 by b6 b7c, the b6 NHC Patuxent River. As a designated b6 it was b6 b7c k2 duty to know, understand and comply with the requirements and standards of the PRP as set forth in OPNAVINST 6110.1J, to include knowing the standards for administering the BCA and PRT components of the PFA.

(13) b6 b7c k2 failed to comply with the OPNAVINST 6110.1J on or about 23 December 2011 by conducting b6 b7c k2 and b6 b7c k2 PFAs consisting of b6 b7c k2 PRT and b6 b7c k2 PRT and BCA. At the time b6 b6 b7c k2 conducted these components of the PFA, he knew that he was not qualified, trained or certified to be a CFL.

(14) By conducting b6 b7c k2 2nd cycle 2011 PRT and b6 b7c k2 2nd cycle 2011 PRT and BCA in December 2011, b6 b7c k2 was derelict in the performance of his duties by negligently failing to follow OPNAVINST 6110.1J.

a. Based on a preponderance of the evidence, the allegation that b6 b7c k2, b6, NHC Patuxent River, not the CFL or an ACFL, was derelict in the performance of his duties in that he negligently failed to follow OPNAVINST 6110.1J, as it was his duty by administering the 2nd cycle 2011 PFAs on b6 b7c k2 and b6 b7c k2 b6 b7c k2 in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation is substantiated.

b. **Recommendations.** Take appropriate action to hold b6 b7c k2 accountable.

c. **Disposition.** Forward to b6 b7c k2 chain of command for appropriate action.

10. Eighth Allegation. That b6 b7c k2, NHC Patuxent River, while not the CFL or an ACFL, was derelict in the performance of his duties in that he negligently failed to follow OPNAVINST 6110.1J, as it was his duty by administering the 2nd cycle CY11 PFA on at least two Chief Petty Officers, including b6 b7c k2 and b6 b7c k2 in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

Facts

(1) As stated in the First Allegation.

(2) OPNAVINST 6110.1J, Enclosure (1) paragraph 7 states in part,

BCA. The BCA portion of the PFA is passed (within BCA standards) when a member is within established Navy body composition assessment standards.

a. *BCA Standards. Navy body composition standards*

are determined by established maximum weight for height standards. If an individual exceeds the weight for height screen, the circumference technique shall be used per the Operating Guide to determine body fat percentage. Individuals who are within standards via the height and weight measurement are exempt from the circumference calculation procedure.

b. PRIMS is the official source to determine the percent fat estimation for men and women. The BCA tables contained in the Physical Readiness Program Operating Guide may be used as an on-site reference.

c. COs and officers in charge should specify the required uniform - uniform of the day or Navy physical training uniform - that will be worn during official and unofficial height and weight screening and circumference measurements.

d. Official BCA. An official BCA is a BCA conducted during the command PFA cycle or after the command PFA cycle for members without a PFA record for the current cycle.

(1) One-on-one BCAs are not authorized. A CFL or trained ACFL and trained observer must be present;

(2) Only a designated and certified CFL or trained ACFL can administer the BCA for an official PFA.

(3) OPNAVINST 6110.1J, Enclosure (1) paragraph 8 states in part,

8. PRT. The PRT is passed when a member scores satisfactory or above in all events.

a. Administration. The PRT shall only be administered by designated and certified CFLs and trained ACFLs. All personnel participating in the PRT shall wear Navy PTU.

b. Participation. Member is medically cleared to participate in the PRT and the BCA is passed.

c. Alternate Cardio Events. The swim, elliptical and bike are alternate cardio events. Participation in an alternative cardio-respiratory event is not an entitlement. The OPNAVINST 6110.1J 11 JUL 2011 Operating Guide provides detailed information on the use and testing procedures for the cardio-respiratory alternative events.

d. Scoring. Each PRT event is scored for five levels of performance and assigned points based on performance:

(1) Outstanding: 90 to 100 points;

(2) Excellent: 75 to 89 points;

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- (3) Good: 60 to 74 points;
- (4) Satisfactory: 45 to 59 points; and
- (5) Failure: 44 points or below.

(e) The CFL is responsible for conducting a safe PRT and shall complete the PFA checklist in the Operating Guide. All events of the PRT shall be performed per the Operating Guide.

(f) One-on-one PRT are not authorized. Every PRT must have a CFL or ACFL and one qualified CPR monitor present per every 25 participants.

(g) All PRTs shall begin with the pre-physical activity questions to Determine whether there have been any changes in medical status since completion of the NAVPERS 6110/3.

(h) The CFL or ACFL will lead the participants in a 5 to 10 minute dynamic warm-up. Appropriate exercises are described in the Operating Guide.

(i) All PRT events shall be completed on the same day, and in the following sequence: warm-up, curl-ups, push-ups, cardio-respiratory event (run or walk, swim, elliptical trainer or stationary bike), and cool-down.

(j) Following completion of the PRT events, the CFL or ACFL shall ensure participants perform recommended cool-down exercises and sign the official PRT score sheet.

(4) UCMJ, Article 92, Failure to Obey Order or Regulation, states, "Any person subject to this chapter who,

(a) violates or fails to obey any lawful general order or regulation;

(b) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(c) is derelict in the performance of his duties; shall be punished as a court-martial may direct.

(5) When asked if he administered the PFA [IO note: 2nd cycle 2011] for b6 b7c k2, b6 b7c k2 stated, "Yes."

(6) When asked if he administered the PFA [IO note: 2nd cycle 2011] for b6 b6 b7c, b6 b7c k2 stated, "Yes."

(7) According to b6 b7c k2 memorandum for the record dated 12 March 2012, during the MEDIG Inspection, b6 b7c k2 stated that b6 b7c k2 conducted a one-on-one PFA on him. b6 b7c k2 stated that no one else was present. According to the

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memorandum for the record b6 b7c k2 did not know that b6 b7c k2 was not the designated CFL.

(8) According to b6 b7c k2 memorandum for the record dated 12 March 2012, during the MEDIG Inspection, b6 b7c k2 stated that b6 b7c k2 conducted her PRT portion of the PFA by himself and no one else was present. b6 b7c k2 further stated that she performed her PFA around the end of December 2011. b6 b7c k2 stated that she believed b6 b7c k2 was the b6 .

(9) b6 b7c k2, on the advice of counsel, elected not to answer any questions pertaining to this investigation.

(10) b6 b7c k2, on the advice of counsel, elected not to answer any questions pertaining to this investigation.

(11) b6 b7c k2 testified that he signed as the b6 on the BCA form dated 28 December 2011, which contained the official results b6 b7c k2 2nd cycle 2011 BCA. When asked if he took the measurements recorded on the form, b6 b7c k2 stated, "Correct, It's not my handwriting but I took the measurements [IO note: BCA measurements]." When asked if the measurements on the form reflected the measurements taken, b6 b7c k2 stated, "Yes." When asked if there was an observer present, b6 b7c k2 stated, "No, there was not."

(12) When shown the PFA form dated 29 December 2011 that contained the official 2nd cycle 2011 results b6 b7c k2 PRT and asked if he signed the form, b6 b7c k2 stated, "Yes." When asked if he recalled if they were the PRT results, b6 b7c k2 stated, "I don't recall exactly, but it looks right." When asked if the results recorded [IO note: b6 b7c k2 2nd cycle 2011 PRT results] on the form were in his handwriting, b6 b7c k2 stated, "That is my handwriting."

(13) b6 b7c k2 verified during his interview that he was present when b6 b7c took his PRT and there were no qualified CPR observers present.

(14) When shown the BCA form dated 28 December 2011 that contained the official results of b6 b7c k2 height and weight measurements and asked if the results recorded on the form were in his handwriting, b6 b7c k2 stated, "Correct, Yes." b6 b7c k2 acknowledged that he took b6 b7c k2 height and weight measurements. b6 b7c k2 was within the weight standard for her height, therefore, no BCA measurements were required.

(15) When shown the PFA form dated 29 December 2011 that contained the official results of b6 b7c k2 2nd cycle 2011 PRT and asked if he signed the form [IO note: verifying the results], b6 b7c k2 stated, "Yes."

(16) When shown the PRIMS 2nd cycle 2011 PFA results for b6 b7c k2 and b6 b7c and asked if he input that information in PRIMS, b6 b7c k2 stated, "Correct."

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(17) When asked of the PRIMS data that shows that b6 b7c k2 failed her 2nd cycle 2011 PRT was correct, b6 b7c k2 stated, "That is correct."

Analysis/Discussion/Conclusion

(1) b6 b7c k2 signed and verified the Body Composition Assessment and Physical Fitness Assessment forms that contained the official 2nd cycle 2011 PFA results for b6 b7c and b6 b7c k2.

(2) b6 b7c k2 admitted conducting b6 b7c k2 and b6 b7c k2 2nd cycle PFAs on 29 December 2011.

(3) b6 b7c k2 admitted to b6 b7c k2, b6 b7c k2, that b6 b7c k2 conducted his 2nd cycle 2011 PFA.

(4) b6 b7c k2 admitted to b6 b7c k2, b6 b7c k2, that b6 b7c k2 conducted his 2nd cycle 2011 PFA.

(5) b6 b7c k2 admitted to b6 b7c k2, b6 b7c k2, that he knew he should not have conducted the PFA on members of the command because he was not designated as the b6 or b6.

(6) b6 b7c k2 was designated in writing as a b6 on 26 July 2011 by b6 b7c b6 b7c, the b6 NHC Patuxent River. As a designated b6 it was b6 b7c k2 duty to know, understand and comply with the requirements and standards of the PRP as set forth in OPNAVINST 6110.1J, to include knowing the standards for administering the BCA and PRT components of the PFA.

(7) b6 b7c k2 failed to comply with the OPNAVINST 6110.1J on or about December 2011 by conducting b6 b7c k2 and b6 b7c k2 PFAs. At the time b6 b7c k2 conducted these two PFA, he knew that he was not qualified, trained or certified to be a CFL.

(8) By conducting b6 b7c k2 and b6 b7c k2 2nd cycle 2011 PFAs in December 2011 b6 b7c k2 was derelict in the performance of his duties by negligently failing to follow OPNAVINST 6110.1J.

a. Based on the preponderance of the evidence, the allegation that b6 b7c k2 b6 b7c k2, b6, NHC Patuxent River, not the b6 or an b6, was derelict in the performance of his duties in that he negligently failed to follow OPNAVINST 6110.1J, as it was his duty by administering the 2nd cycle CY11 PFA on at least two b6 b7c k2, including b6 b7c k2 and b6 b7c k2 in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation is substantiated.

b. **Recommendations.** Take appropriate action to hold (b)(6), (b)(7)(c) accountable.

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c. **Disposition.** Forward to b6 b7c k2 chain of command for appropriate action.

11. Ninth Allegation. That b6 b7c k2, b6, NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing b6 b7c k2, b6, not the b6 or an b6, to administer her 2nd Cycle CY11 PFA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

Facts

(1) As stated in the First Allegation.

(2) OPNAVINST 6110.1J, Enclosure (1) paragraph 7 states in part,

BCA. The BCA portion of the PFA is passed (within BCA standards) when a member is within established Navy body composition assessment standards.

a. BCA Standards. Navy body composition standards are determined by established maximum weight for height standards. If an individual exceeds the weight for height screen, the circumference technique shall be used per the Operating Guide to determine body fat percentage. Individuals who are within standards via the height and weight measurement are exempt from the circumference calculation procedure.

b. PRIMS is the official source to determine the percent fat estimation for men and women. The BCA tables contained in the Physical Readiness Program Operating Guide may be used as an on-site reference.

c. COs and officers in charge should specify the required uniform - uniform of the day or Navy physical training uniform - that will be worn during official and unofficial height and weight screening and circumference measurements.

d. Official BCA. An official BCA is a BCA conducted during the command PFA cycle or after the command PFA cycle for members without a PFA record for the current cycle.

(1) One-on-one BCAs are not authorized. A CFL or trained ACFL and trained observer must be present;

(2) Only a designated and certified CFL or trained ACFL can administer the BCA for an official PFA.

(3) OPNAVINST 6110.1J, Enclosure (1) paragraph 8 states in part,

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8. *PRT. The PRT is passed when a member scores satisfactory or above in all events.*

a. Administration. The PRT shall only be administered by designated and certified CFLs and trained ACFLs. All personnel participating in the PRT shall wear Navy PTU.

b. Participation. Member is medically cleared to participate in the PRT and the BCA is passed.

c. Alternate Cardio Events. The swim, elliptical and bike are alternate cardio events. Participation in an alternative cardio-respiratory event is not an entitlement. The OPNAVINST 6110.1J 11 JUL 2011 Operating Guide provides detailed information on the use and testing procedures for the cardio-respiratory alternative events.

d. Scoring. Each PRT event is scored for five levels of performance and assigned points based on performance:

- (1) Outstanding: 90 to 100 points;*
- (2) Excellent: 75 to 89 points;*
- (3) Good: 60 to 74 points;*
- (4) Satisfactory: 45 to 59 points; and*
- (5) Failure: 44 points or below.*

(e) The CFL is responsible for conducting a safe PRT and shall complete the PFA checklist in the Operating Guide. All events of the PRT shall be performed per the Operating Guide.

(f) One-on-one PRT are not authorized. Every PRT must have a CFL or ACFL and one qualified CPR monitor present per every 25 participants.

(g) All PRTs shall begin with the pre-physical activity questions to Determine whether there have been any changes in medical status since completion of the NAVPERS 6110/3.

(h) The CFL or ACFL will lead the participants in a 5 to 10 minute dynamic warm-up. Appropriate exercises are described in the Operating Guide.

(i) All PRT events shall be completed on the same day, and in the following sequence: warm-up, curl-ups, push-ups, cardio-respiratory event (run or walk, swim, elliptical trainer or stationary bike), and cool-down.

(j) Following completion of the PRT events, the CFL or ACFL shall ensure participants perform recommended cool-down exercises and sign the official PRT score sheet.

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(4) UCMJ, Article 92, Failure to Obey Order or Regulation, states, "Any person subject to this chapter who,

(a) violates or fails to obey any lawful general order or regulation;

(b) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(c) is derelict in the performance of his duties; shall be punished as a court-martial may direct.

(5) According to the Fall [IO note: 2nd cycle 2011] PFA notification issued by b6 b7c on 27 July 2011, b6 b7c k2 point of contact was, "b6 b7c k2 at (b6)b6 b7c k2 or b6 b7c k2 @med.navy.mil."

(6) According to b6 b7c k2 memorandum for the record dated 12 March 2012, during the MEDIG Inspection, b6 b7c k2 stated that b6 b7c k2 conducted her PRT portion of the PFA by himself and no one else was present. b6 b7c k2 further stated that she performed her PFA around the end of December 2011. b6 b7c k2 stated that she believed b6 b7c k2 was the b6 .

(7) When asked if it would be his understanding that they [IO note: b6 b7c k2 and b6 b7c k2] knew that he was disenrolled from the CFL certification course, b6 b6 b7c k2 stated, "I'm sure they knew."

(8) When asked if he ever had a discussion with b6 b7c k2 or b6 b7c k2 about him not being a certified b6 , b6 b7c k2 stated, "No."

(9) b6 b7c k2 , on the advice of counsel, elected not to answer questions pertaining to this investigation.

Analysis/Discussion/Conclusion

(1) b6 b7c k2 listed b6 b7c k2 as the point of contact for the Fall 2011 PFA.

(2) b6 b7c k2 did not discuss the fact that he was not a b6 with b6 b7c k2 .

(3) Although according to b6 b7c k2 , b6 b7c k2 knew that he had been disenrolled from the CFL course, the fact that b6 b7c k2 re-designated b6 b7c k2 as a b6 after being disenrolled from the CFL course, and submitted applications for b6 b6 b7c k2 to attend future CFL course, a reasonable person could believe that b6 b6 b7c k2 was a b6 .

(4) A reasonable person could also believe b6 b7c k2 was a b6 based on the fact that he coordinated her PFA and recorded the results on the official command PFA forms.

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(5) b6 b7c k2 did not fail to comply with the OPNAVINST 6110.1J on or about December 2011 by allowing b6 b7c k2 to conduct her 2nd cycle 2011 PFA and was therefore, not derelict in her duty. Although at the time that b6 b7c k2 conducted b6 b7c k2 2nd cycle 2011 PFA he was not a qualified, trained or certified b6 , it was reasonable that b6 b7c k2 believed that b6 b7c k2 was a b6 .

a. Based on the preponderance of the evidence, the allegation that b6 b7c k2 , b6 , NHC Patuxent River was derelict in the performance of her duties in that she negligently failed to follow OPNAVINST 6110.1J, as it was her duty, by allowing b6 b6 b7c k2 , b6 , not the b6 or an ACFL, to administer her 2nd Cycle CY11 PFA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation is **not substantiated**.

b. **Recommendations.** None.

c. **Disposition.** N/A.

12. Tenth Allegation. That b6 b7c k2 , NHC Patuxent River was derelict in the performance of his duties in that he negligently failed to follow OPNAVINST 6110.1J, as it was his duty, by allowing b6 b7c k2 , not the b6 or the b6 , to administer his 2nd Cycle CY11 PFA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation.

Facts

(1) As stated in the previous Allegations.

(2) OPNAVINST 6110.1J, Enclosure (1) paragraph 8 states in part,

8. *PRT. The PRT is passed when a member scores satisfactory or above in all events.*

a. *Administration. The PRT shall only be administered by designated and certified CFLs and trained ACFLs. All personnel participating in the PRT shall wear Navy PTU.*

b. *Participation. Member is medically cleared to participate in the PRT and the BCA is passed.*

c. *Alternate Cardio Events. The swim, elliptical and bike are alternate cardio events. Participation in an alternative cardio-respiratory event is not an entitlement. The OPNAVINST 6110.1J 11 JUL 2011 Operating Guide provides detailed information on the use and testing procedures for the cardio-respiratory alternative events.*

d. *Scoring. Each PRT event is scored for five levels of performance and assigned points based on performance:*

(1) *Outstanding: 90 to 100 points;*

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- (2) *Excellent: 75 to 89 points;*
- (3) *Good: 60 to 74 points;*
- (4) *Satisfactory: 45 to 59 points; and*
- (5) *Failure: 44 points or below.*

(e) *The CFL is responsible for conducting a safe PRT and shall complete the PFA checklist in the Operating Guide. All events of the PRT shall be performed per the Operating Guide.*

(f) *One-on-one PRT are not authorized. Every PRT must have a CFL or ACFL and one qualified CPR monitor present per every 25 participants.*

(g) *All PRTs shall begin with the pre-physical activity questions to Determine whether there have been any changes in medical status since completion of the NAVPERS 6110/3.*

(h) *The CFL or ACFL will lead the participants in a 5 to 10 minute dynamic warm-up. Appropriate exercises are described in the Operating Guide.*

(i) *All PRT events shall be completed on the same day, and in the following sequence: warm-up, curl-ups, push-ups, cardio-respiratory event (run or walk, swim, elliptical trainer or stationary bike), and cool-down.*

(j) *Following completion of the PRT events, the CFL or ACFL shall ensure participants perform recommended cool-down exercises and sign the official PRT score sheet.*

(3) UCMJ, Article 92, Failure to Obey Order or Regulation, states, "Any person subject to this chapter who,

(a) *violates or fails to obey any lawful general order or regulation;*

(b) *having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or*

(c) *is derelict in the performance of his duties; shall be punished as a court-martial may direct.*

(4) According to the Fall [IO note: 2nd cycle 2011] PFA notification issued by b6 b6 b7c on 27 July 2011, b6 b7c k2 point of contact was, b6 b7c k2 at (b6 b6 b7c k2 or b6 b7c k2."

(5) b6 b7c k2, on the advice of counsel, elected not to answer questions pertaining to this investigation.

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(6) According to b6 b7c k2 memorandum for the record dated 12 March 2012, during the MEDIG Inspection, b6 b7c k2 stated that b6 b7c k2 conducted his PFA by himself and no one else was present. b6 b7c k2 further stated that he performed his PFA around the end of December 2011. b6 b7c k2 stated that he believed b6 b7c k2 was the b6 .

(7) When asked if it would be his understanding that they [IO note: b6 b7c k2 and b6 b7c k2] knew that he was disenrolled from the CFL certification course, b6 b6 b7c k2 stated, "I'm sure they knew."

(8) When asked if he ever had a discussion with b6 b7c k2 or b6 b7c k2 about him not being a certified b6 , b6 b7c k2 stated, "No."

Analysis/Discussion/Conclusion

(1) b6 b7c k2 listed b6 b7c k2 as the point of contact for the Fall 2011 NHC Patuxent River PFA.

(2) b6 b7c k2 did not discuss the fact that he was not ab6 with b6 b7c k2 .

(3) Although according to b6 b7c k2 , b6 b7c k2 knew that he had been disenrolled from the CFL course, the fact that b6 b7c k2 re-designated b6 b7c k2 as ab6 after being disenrolled from the CFL course, and submitted applications for b6 b6 b7c k2 to attend future CFL course, it is reasonable that b6 b7c k2 believed that b6 b6 b7c k2 was ab6 .

(4) A reasonable person could also believe b6 b7c k2 was a b6 based on the fact that he coordinated b6 b7c k2 PFA and recorded the results on the official command PFA forms and signed the forms verifying the results.

(5) b6 b7c k2 did not fail to comply with the OPNAVINST 6110.1J on or about December 2011 by allowing b6 b7c k2 to conduct his 2nd cycle 2011 PFA and was therefore, not derelict in his duty. Although at the time that b6 b7c k2 conducted b6 b6 b7c k2 2nd cycle 2011 PFA was not a qualified, trained or certified b6 , it was reasonable that b6 b7c k2 believed that b6 b7c k2 was a b6 .

a. Based on the preponderance of the evidence, the allegation that b6 b7c k2 , b6 , NHC Patuxent River was derelict in the performance of his duties in that he negligently failed to follow OPNAVINST 6110.1J, as it was his duty, by allowing b6 b6 b7c k2 , b6 , not the CFL or the ACFL, to administer his 2nd Cycle CY11 PFA in violation of the UCMJ, Article 92, Failure to Obey Order or Regulation is **not substantiated**.

b. Recommendations. None.

c. Disposition. N/A.

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13. Interviews and Documents

a. Interviews conducted. (All interviews were conducted in person unless otherwise noted.)

- (1) [REDACTED], NHC Patuxent River (subject)
- (2) [REDACTED], NHC Patuxent River (subject)
- (3) [REDACTED], NHC Patuxent River
- (4) [REDACTED], NHC Patuxent River
- (5) [REDACTED], NHC Patuxent River
- (6) [REDACTED], NHC Patuxent River
- (7) [REDACTED], NHC Patuxent River
- (8) [REDACTED], NHC Patuxent River
- (9) [REDACTED], [REDACTED], NHC Patuxent River
- (10) [REDACTED], [REDACTED], NHC Patuxent River
- (11) [REDACTED], [REDACTED], NHC Patuxent River
- (12) [REDACTED], [REDACTED], NHC Patuxent River
- (13) [REDACTED], [REDACTED], NHC Patuxent River
- (14) [REDACTED], [REDACTED], NHC Patuxent River (subject)
- (15) [REDACTED], [REDACTED], NHC Patuxent River

b. Documents reviewed.

- (1) MCM, UCMJ, Article 92, Failure to Obey Order or Regulation
- (2) MCM UCMJ, Article 107, False Official Statement
- (3) OPNAVINST 6110.1H, Physical Readiness Program

- (4) OPNAVINST 6110.1J Physical Readiness Program
- (5) NAVHLTHCLINICPAXRIV Instruction 6110.1L, Physical Readiness Program
- (6) CO, NHC Patuxent River letter dated 27 July 2011, Fall 2011 Physical Fitness Assessment Cycle Two
- (7) E-mail correspondence between [b6 b7c k2] and [b6 b7c k2] dated 15 July 2011
- (8) MFR dated 12 March 2012 from [b6 b7c k2], [b6 b7c k2]
- (9) [b6 b7c k2] NHC Patuxent River Physical Fitness Assessment/Physical Readiness Test form dated 23 December 2011
- (10) [b6 b7c k2] NHC Patuxent River Body Composition Assessment Record dated 22 December 2011
- (11) [b6 b7c k2] PRIMS Body Composition Listing 2007-2011
- (12) PRIMS PFA Listing Report – PFA Results, UIC 66098, Cycle 2 2011 dated 6 March 2011
- (13) [b6 b7c k2] NHC Patuxent River Physical Fitness Assessment/Physical Readiness Test form dated 23 December 2011
- (14) [b6 b7c k2] NHC Patuxent River Body Composition Assessment Record dated 22 December 2011
- (15) [b6 b7c k2] NHC Patuxent River Physical Fitness Assessment/Physical Readiness Test form dated 29 December 2011
- (16) [b6 b7c k2] NHC Patuxent River Body Composition Assessment Record dated 28 December 2011
- (17) [b6 b7c k2] PRIMS PFA Listing Report 2007-2011, dated 5 May 2012
- (18) [b6 b7c k2] NHC Patuxent River Physical Fitness Assessment/Physical Readiness Test form dated 29 December 2011
- (19) [b6 b7c k2] NHC Patuxent River Body Composition Assessment Record dated 28 December 2011
- (20) [b6 b7c k2] PRIMS PFA Listing Report 2007-2011, dated 5 May 2012

(21) b6 b7c k2 NHC Patuxent River Physical Fitness Assessment/Physical Readiness Test form dated 29 December 2011

(22) b6 b7c k2 NHC Patuxent River Body Composition Assessment Record dated 28 December 2011

(23) b6 b7c k2 PRIMS PFA Listing Report 2007-2011, dated 5 May 2012

(24) b6 b7c k2 e-mail dated 17 May 2012, titled 'b6 b7c k2 Measurements'

(25) b6 b7c k2 e-mail dated 9 March 2012, titled 'Investigation'

(26) b6 b7c k2 letter dated 12 July 2011 assigning b6 b7c k2 as the b6

(27) b6 b7c k2 letter dated 19 January 2011 assigneing b6 b7c k2 as an b6

(28) b6 b7c k2 letter 6100/Ser 00F0A undated, designating b6 b7c k2 as the b6 as of 21 April 2011 and requesting that PRIMS access be transferred from b6 b7c k2 to b6 b7c k2

(29) b6 b7c k2 letter 6100/Ser 00F0A/0618 dated 26 July 2011 designating b6 b6 b7c k2 as the b6 as of 26 July 2011 and requesting that PRIMS access be transferred from b6 b7c k2 to b6 b7c k2

(30) CNIC Navy CFL course application ICO b6 b7c k2 dated 13 May 2011 2010

(31) CNIC Navy CFL course application ICO b6 b7c k2 dated 26 July 2011

(32) b6 b7c k2 e-mail dated 3 May 2012, titled Request for Information, proding the b6 b7c k2 course completion status

(33) b6 b7c k2 e-mail dated 1 May 2012, titled IG Investigation providing the date of the change of command

(34) b6 b7c k2 e-mail dated 29 June 2012, titled 2nd cycle 2011 FEP Mock PFA

(35) b6 b7c k2 letter 6110/Ser 00SMP/0213 dated 2 March 2012, Spring 2012 Physical Fitness Assessment Cycle One

(36) b6 b7c k2 Letter of Appointment, 1601 00F0A, dated 19 September 2011, ICO b6 b7c k2 appointment as an Authorized Medical Department Representative

(37) b6 b7c k2 (b6 e-mail dated 23 May 2012, BCA Results for Review

(38) b6 b7c k2, PH.D. report undated, Development of the DoD Body Composition Estimation Equations

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(39) b6 b7c k2 memo 5040 dated 11 May 2012 MEDIG Assessment of NHC Patuxent River 1st Cycle 2012 PFA

(40) b6 b7c k2 NHC Patuxent River BCA form dated 1 May 2012

(41) b6 b7c k2 NHC Patuxent River PFA form date 4 May 2012

(42) b6 b7c k2 NHC Patuxent River BCA form dated 9 May 2012

(43) b6 b7c k2 PFA form dated 10 May 2012

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